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CHAPTER NO. 302

[SB 73]

AN ACT GENERALLY REVISING CERTAIN AGRICULTURAL COMMODITY LICENSING REQUIREMENTS; EXPANDING THE DEFINITION OF "COMMODITY DEALER" TO INCLUDE BROKERING AND ONLINE TRANSACTIONS; ALLOWING COMPANIES TO POST BONDS FOR SUBSIDIARIES; ALLOWING THE DEPARTMENT TO WAIVE A REQUIREMENT TO PROVIDE A COMPLETE FINANCIAL STATEMENT; ADDING BONDING AND LIABILITY REQUIREMENTS FOR COMMODITY DEALERS ACTING AS BROKERS; AMENDING SECTIONS 80-4-402, 80-4-405, 80-4-601, AND 80-4-604, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 80-4-402, MCA, is amended to read:

"80-4-402. Definitions. As used in parts 4 through 7 of this chapter, the following definitions apply:

(1) "Agent" means a person who contracts for or solicits any agricultural commodities from a producer or warehouse operator or negotiates the consignment or purchase of any agricultural commodity on behalf of a commodity dealer.

(2) "Agricultural commodity" means any grain, oil seed crops, seed, or other crops designated by rule of the department.

(3) "Bailment" means the transfer, by written or verbal contract, of an agricultural commodity by an owner of a commodity to a producer for the purpose of obtaining the producer's services in planting, growing, harvesting, or delivering back to the owner the agricultural commodity. The term includes any one or all of the enumerated transactions, whether title passes or not.

(4) "Bond" means the bond required to be filed by part 5 or 6 of this chapter and includes any equivalent established by department rule, as provided in 80-4-504 and 80-4-604.

(5) (a) "Commodity dealer" means a person who engages in a business involving or, as part of the business, participates in buying, *brokering*, exchanging, negotiating, or soliciting the sale, resale, exchange, bailment, or transfer of any agricultural commodity in the state of Montana, *including online transactions of agricultural commodities grown in Montana*.

(b) The term does not include:

(i) a person engaged solely in storing, shipping, or handling agricultural commodities for hire;

(ii) a person who buys agricultural commodities from a licensed commodity dealer;

(iii) a person who does not purchase more than \$30,000 worth of agricultural commodities from producers during a licensing year; however, once a person exceeds the \$30,000 exemption, the person shall obtain a license and is not eligible for the exemption for the succeeding year;

(iv) a person who is the producer of agricultural commodities that the person actually plants, nurtures, and harvests;

(v) a person whose trading in agricultural commodities is limited to trading in commodity futures on a recognized futures exchange; or

(vi) a person who buys agricultural commodities used exclusively for the feeding of livestock.

(6) “Delayed payment contract” means a written contract for the sale of an agricultural commodity when the purchase price is to be paid at a date after delivery of the agricultural commodity to the buyer and includes but is not limited to those contracts commonly referred to as deferred payment contracts, deferred pricing contracts, no-price-established contracts, or price-later contracts. A delayed payment contract does not include those contracts in which the parties intend payment to be made immediately upon determination of weights and grades.

(7) “Department” means the department of agriculture provided for in 2-15-3001.

(8) “Depositor” means a person who delivers an agricultural commodity to a commodity dealer for sale, who deposits an agricultural commodity in a warehouse for storage, processing, handling, or shipment, who is the owner or legal holder of an outstanding warehouse receipt, or who is lawfully entitled to possession of the agricultural commodity.

(9) “Director” means the director of the department of agriculture.

(10) “Equity” means the residual interest in the assets of a person that remains after deducting the liabilities of the person under generally accepted accounting principles.

(11) “FGIS” means the federal grain inspection service, a program administered by the federal grain inspection, packers, and stockyards administration (GIPSA).

(12) “Grain” means all grains for which standards have been established under the Grain Standards Act and all other agricultural commodities, such as mustard, oil seed crops, or other crops, that may be designated by rule of the department.

(13) “Grain standards” means the official standards of quality and condition of grain that establish the grades defined by the Grain Standards Act or those standards adopted by department rule.

(14) “Grain Standards Act” means the United States Grain Standards Act, 7 U.S.C. 71 through 87.

(15) “Inspector” means a person designated by the director to assist in the administration of parts 4 through 7 of this chapter. The term includes warehouse auditors or examiners.

(16) “Official agricultural commodity inspectors” means official personnel who perform or supervise the performance of official inspection services and certify the results of inspections, including the grade of agricultural commodities.

(17) “Official agricultural commodity samplers” or “samplers” means official personnel who perform or supervise the performance of official sampling services and certify the results of the sampling.

(18) “Official agricultural commodity weighers” means official personnel who perform or supervise the performance of class X or class Y weighing services and certify the results of the services, including the weight of the agricultural commodity.

(19) “Person” means an individual, firm, association, corporation, partnership, or any other form of business enterprise.

(20) “Producer” means the owner, tenant, or operator of land in this state who has an interest in and receives all or part of the proceeds from the sale of agricultural commodities produced on that land.

(21) “Public warehouse” or “warehouse” means an elevator, mill, warehouse, subterminal grain warehouse, public warehouse, or other structure or facility in which, for compensation, agricultural commodities are received for storage,

handling, processing, or shipment. The term includes facilities that commingle commodities belonging to different lots of agricultural commodities.

(22) "Purchase contract" means a delayed payment contract or other written contract for the purchase of agricultural commodities by a commodity dealer.

(23) "Purchase price" means the final price after premiums and discounts are assessed.

(24) "Receipt" means a warehouse receipt.

(25) "Scale weight ticket" means a load slip or other evidence of delivery, other than a receipt, given to a depositor by a warehouse operator licensed under the provisions of part 5 of this chapter upon initial delivery of the agricultural commodity to the warehouse.

(26) "Station" means a warehouse located more than 3 miles from the central office of the warehouse.

(27) "Subterminal warehouse" means a warehouse where an intermediate function is performed in which agricultural commodities are customarily received from dealers or producers and where the commodities are accumulated prior to shipment.

(28) "Terminal grain warehouse" means a warehouse authorized by a grain exchange to receive or disburse grain on consignment as presented by the rules and regulations of a grain exchange.

(29) "Warehouse operator" means a person operating or controlling a public warehouse.

(30) "Warehouse receipt" means every receipt, whether negotiable or nonnegotiable, issued under part 5 of this chapter by a warehouse operator, except scale weight tickets.

(31) "Working capital" means the excess of current assets over current liabilities under generally accepted accounting principles."

Section 2. Section 80-4-405, MCA, is amended to read:

"80-4-405. Maximum bond amount. The maximum amount of any public warehouse operator bond may not exceed \$1 million and the maximum amount of a commodity dealer bond may not exceed \$1 million, except:

(1) any bonds compensating for equity or working capital deficiencies prescribed in parts 5 and 6 of this chapter must be added to the maximum bond amount. If the public warehouse operator is also licensed as a commodity dealer, only one bond amount is required.

~~(2) the maximum bond amount must be adjusted each year based upon the percentage increase or decrease in the annual average index of prices received by Montana farmers for food and feed grains as computed by the Montana crop and livestock reporting service.~~

~~(2) if required as part of a commodity warehouse operator's or commodity dealer's license modified by the department pursuant to 80-4-421."~~

Section 3. Section 80-4-601, MCA, is amended to read:

"80-4-601. Commodity dealer license requirements -- financial responsibility. (1) A person may not engage in the business of a commodity dealer in this state without first having obtained a license issued by the department.

(2) An application for a license to engage in business as a commodity dealer must be filed with the department and must be on a form prescribed by the department.

(3) (a) A license application must include the following:

- (i) the name of the applicant;
- (ii) the names of the officers and directors if the applicant is a corporation;
- (iii) the names of the partners if the applicant is a partnership;
- (iv) the location of the principal places of business;

(v) a sufficient and valid bond as specified in 80-4-604, plus the bond specified in subsection (5)(a)(i) or (5)(a)(ii) if applicable, or as specified in subsection (5)(a)(iii);

(vi) a complete financial statement prepared by a certified public accountant according to generally accepted accounting principles, setting forth the applicant's *cost of all commodities purchased in Montana*, assets, liabilities, and equity; and

(vii) any other reasonable information the department finds necessary to carry out the provisions and purpose of this part.

(b) In determining the value of assets for the purposes of commodity dealer licensing:

(i) the value of the assets must be shown at original cost less depreciation, except that upon written request filed with the department, the director may allow asset valuations in accordance with a competent appraisal; and

(ii) credit may be given for insurable property, such as buildings, machinery, equipment, and merchandise inventory, only to the extent that the insurable property is protected against loss or damage by fire by insurance in the form of lawful policies issued by one or more insurance companies authorized to do business and subject to service of process in suits brought in this state.

(4) Except as provided in subsection (5), in order to receive and retain a commodity dealer's license, a commodity dealer shall have and maintain:

(a) equity of \$50,000;

(b) positive working capital; and

(c) the bond required under 80-4-604.

(5) (a) An applicant for a commodity dealer's license:

(i) that meets the condition specified in subsection (4)(c) and has maintained positive equity but does not meet the condition specified in subsection (4)(a) shall provide the department with additional bonding in the amount of \$2,000 for each \$1,000 or fraction of \$1,000 that the applicant's equity is less than \$50,000; and

(ii) that meets the condition specified in subsection (4)(c) but does not meet the condition specified in subsection (4)(b) shall provide the department with additional bonding in the amount of \$2,000 for each \$1,000 or fraction of \$1,000 that the applicant's current liabilities exceed the applicant's current assets; or

(iii) that cannot or chooses not to meet the requirements of subsections (4)(a), (4)(b), and (4)(c) may, at the applicant's discretion and with the consent of the department, provide the department with a bond in the amount of 110% of the value of commodities the applicant or dealer intends to purchase during the term of the license or 110% of the value of commodities the dealer purchased during the preceding 12 months, whichever is greater. The minimum bond is \$20,000.

(b) An applicant or commodity dealer that provides a bond under subsection (5)(a)(iii) is exempt from the bonding requirement in 80-4-604(2).

(c) If a commodity dealer posts a bond or equivalent under subsection (5)(a)(iii) and at any time has unpaid contracts that exceed 90% of the dealer's bond or equivalent, the dealer shall either pay off contracts of sufficient value or increase the bond amount so that the total value of the unpaid contracts is less than 90% of the bond or equivalent.

(6) *A company may post a bond required by this part for a subsidiary company if the corporate bonds are rated as Aa3 or better by Moody's investors service, inc., or as AA- or better by Standard and Poor's financial services and are issued with the full credit of the parent corporation.*

(7) (a) *A company or its subsidiary may request that the department waive the requirement to file a complete financial statement pursuant to subsection*

(3)(a)(vi) for a licensing year, the deficit bonding requirements in 80-4-405(1), or both, if the company:

(i) has been licensed for 1 year;

(ii) has corporate bonds rated as Baa3 or better by Moody's investors service, inc., as BBB- or better by Standard and Poor's financial services, or as investment grade by an equivalent rating system as determined by department rule; and

(iii) posts the maximum bond amount required by 80-4-405.

(b) The director shall grant or deny the request within 14 days.

(8) (a) A company or its subsidiary may request that the department waive the requirement of subsection (4)(a) or (4)(b), or both, if the company:

(i) has been licensed for 1 year;

(ii) posts the maximum bond amount required by 80-4-405; and

(iii) includes a profit or loss statement from the company's or subsidiary's previous fiscal year that shows operational income equal to or in excess of the value of commodities intended to be purchased during the term of the commodity dealer license.

(b) The director shall grant or deny the request within 14 days.

(9) A company whose business structure includes one or more subsidiary locations may file the parent company's financial statement to meet the requirement of subsection (3)(a)(vi). Financial statements are not required for each subsidiary location.

~~(6)~~(10) The department shall adopt rules relating to the form and time of filing of financial statements. The department may require additional information or verification regarding the financial resources of the applicant and the applicant's ability to pay producers for agricultural commodities purchased from them."

Section 4. Section 80-4-604, MCA, is amended to read:

"80-4-604. Bonding requirement amounts – cancellation. (1) An applicant for a license to operate as a commodity dealer shall, before a license may be issued, file with the department a surety bond or its equivalent, as established by department rule, payable to the state.

(2) Except as provided in 80-4-601(5)(b) and subsection (3) of this section:

(a) the bond for a commodity dealer may not exceed 2% of the value of the agricultural commodities purchased by the commodity dealer from the producer during the previous 12-month period;

(b) the bond for all new applicants is 2% of the estimated value of all agricultural commodities to be purchased during the coming 12-month period; and

(c) the minimum amount of bond required by any commodity dealer is \$20,000 and the maximum is prescribed in 80-4-405.

(3) (a) A commodity dealer acting as a broker and contracting or otherwise conducting business with a commodity dealer licensed in Montana shall post the minimum amount of bond pursuant to subsection (2)(c).

(b) A commodity dealer acting as a broker and contracting or otherwise conducting business with a buyer not licensed as a commodity dealer in Montana shall:

(i) post the maximum amount of bond required by 80-4-405; and

(ii) be held jointly liable with the buyer for failure to comply with terms of a written contract or failure to pay for a commodity purchase under an oral agreement pursuant to 80-4-612.

~~(3)~~(4) A surety shall notify the commodity dealer and the department by certified mail at least 60 days prior to the cancellation of the bond. A commodity dealer's bond filed with the department is continuous until canceled by the

surety upon 60 days' notice; however, cancellation does not terminate any liability of the surety incurred prior to the date of cancellation."

Section 5. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2019

CHAPTER NO. 303

[SB 76]

AN ACT GENERALLY REVISING THE LAWS RELATING TO OCCUPANCY OF AND ENCROACHMENT ON TRANSPORTATION COMMISSION-DESIGNATED HIGHWAY SYSTEM OR STATE HIGHWAY RIGHTS-OF-WAY; ALLOWING FOR ENCROACHMENT PERMITS; REVISING THE ENCROACHMENT REMOVAL PROCEDURE; ALLOWING FOR THE IMMEDIATE REMOVAL OF DANGEROUS ENCROACHMENTS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 60-4-402, 60-6-101, 60-6-102, 60-6-103, 60-6-104, AND 60-6-105, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 60-4-402, MCA, is amended to read:

"60-4-402. Occupancy and relocation of utility facilities – rules.

(1) The department shall adopt reasonable rules governing right-of-way occupancy by a utility ~~and, for the following:~~

(a) *installation, construction, maintenance, repair, or system upgrade of all utilities on commission-designated highway systems or state highways;*

(b) *except as provided in 60-4-403(2) and (3), for the reimbursement to a utility for the costs of installation, construction, maintenance, repair, renewal, or relocation of facilities; and*

(c) *issuance of an occupancy permit or, in the case of a facility not within the scope of Title 60, chapter 4, part 4, an encroachment permit.*

(2) The rules must provide for right-of-way occupancy and relocation of publicly owned water and sewer facilities. The rules must ensure that the nonhighway use of the right-of-way does not affect the department's ability to maintain and operate the highway in a safe manner.

(3) *The permitting provisions of this section do not apply to existing utility facilities or existing facilities not within the scope of Title 60, chapter 4, part 4, lawfully occupying the highway right-of-way on [the effective date of this act]."*

Section 2. Section 60-6-101, MCA, is amended to read:

"60-6-101. Highway encroachments – ~~permit~~ – immediate removal.

(1) ~~If any highway under the jurisdiction of the transportation commission a commission-designated highway system or state highway is encroached upon on by an obstruction, device, or object placed within the right-of-way limits, including a fence, building, structure, sign, marker, mailbox, newspaper delivery box, or driveway approach, or is obstructed by physical occupancy of the right-of-way by a person, persons, or group of persons or other obstruction, the department of transportation may:~~

(a) *for a mailbox or newspaper delivery box, may issue an encroachment permit pursuant to subsection (3); and*

(b) (i) *for all other encroachments, may issue an encroachment permit pursuant to subsection (2); or*

(ii) *may give notice in writing to the person erecting or maintaining such the encroachment requiring the same to that it be removed.*

(2) (a) *A highway right-of-way encroachment may not be constructed, maintained, or occupied on a commission-designated highway system or state*

highway without a permit. An application for a permit must be made to the department on a form provided by the department. The department shall require reasonable information to be furnished, including site plan drawings or specifications for an object encroachment.

(b) The department shall adopt rules pertaining to the issuance of encroachment permits and the removal of encroachments.

(2)(3) (a) The department shall adopt rules pertaining to the accommodation of mailboxes and newspaper delivery boxes on public highway rights-of-way. The rules must ensure that the location and construction of mailboxes and newspaper delivery boxes conform to the rules and regulations of the U.S. postal service.

(b) The department may issue an encroachment permit for a completed permit application for a mailbox or newspaper delivery box.

(c) The department may not charge a fee for an encroachment permit for a mailbox or newspaper delivery box.

(3)(4) If ~~the~~ an encroachment obstructs ~~and~~ or prevents the use of the highway for vehicles, the department may immediately remove the ~~same~~ encroachment without the notice required by 60-6-102.

(5) Utility facilities lawfully occupying a highway right-of-way on [the effective date of this act], or under an occupancy or encroachment permit issued by the department pursuant to 60-4-402(1)(c), are not encroachments within the meaning of this part."

Section 3. Section 60-6-102, MCA, is amended to read:

"60-6-102. Notice of encroachment. (1) Notice to remove ~~the an~~ unpermitted encroachment, specifying the width of the highway right-of-way and the place and extent of the encroachment, must be given to the person erecting or maintaining ~~such the~~ encroachment.

(2) Notice must be given in the following manner:

(a) in writing by certified mail sent to the person's business or personal address or by personal service; or

(b) if ~~such the~~ the person's address cannot be found, by posting it on the encroachment."

Section 4. Section 60-6-103, MCA, is amended to read:

"60-6-103. Encroachment not permanently affixed -- Time time limit for removal -- penalty. (1) If ~~the an~~ unpermitted encroachment is not permanently affixed to the land, ~~such encroachment shall be and is not~~ removed from the right-of-way by ~~the person who erected or maintains the encroachment~~ within 2 days after receipt of the notice provided for in 60-6-102: ~~If such an encroachment remains on the right-of-way after this period of time, the department may begin action under 60-6-104 for its removal at the expense of the person who causes, owns, or controls the encroachment shall be liable for the cost of such removal it. The department may recover the expense of removal and costs in an action brought for that purpose.~~

(2) If an encroachment presents an imminent danger to the public, the department may immediately remove the encroachment without the notice required by 60-6-102."

Section 5. Section 60-6-104, MCA, is amended to read:

"60-6-104. Denial of Unpermitted encroachment -- department action. If the encroachment is ~~denied~~ an encroachment permit provided for in 60-6-101 has not been granted and the person erecting or maintaining the encroachment fails to remove it after receiving notice pursuant to 60-6-102, the department shall commence appropriate legal action to have ~~said the~~ encroachment removed. If the department recovers a judgment, it shall have its costs. If the encroachment is not removed within 5 days after entry of

judgment, the department may remove it at the expense of the person who causes, owns, or controls it.”

Section 6. Section 60-6-105, MCA, is amended to read:

“60-6-105. Removal at owner’s expense when not denied Encroachment affixed to the land – time limit for removal – penalty – immediate removal. (1) If an *unpermitted* encroachment affixed to the land is not ~~denied and is not~~ removed by the person who erected or maintains the encroachment within 5 days after receipt of the receiving notice as provided for in 60-6-102, the department may *begin action under 60-6-104* to remove it at the expense of the person who causes, owns, or controls it. The department may recover the expense of removal and costs in an action brought for that purpose.

(2) *If an encroachment presents an imminent danger to the public, the department may immediately remove the encroachment without the notice required by 60-6-102.”*

Approved May 7, 2019

CHAPTER NO. 304

[SB 93]

AN ACT GENERALLY REVISING SOLAR FACILITY DECOMMISSIONING AND BONDING LAWS; REQUIRING THE OWNERS OF SOLAR FACILITIES TO SUBMIT A DECOMMISSIONING PLAN AND BOND TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY; ESTABLISHING PLAN AND BOND REQUIREMENTS AND TIMELINES; PROVIDING EXCEPTIONS TO BOND REQUIREMENTS; ESTABLISHING CRITERIA FOR BOND RELEASE; PROVIDING A PENALTY FOR FAILURE TO SUBMIT A BOND; ALLOWING THE DEPARTMENT TO PROPERLY DECOMMISSION A FACILITY IN CERTAIN CASES; PROVIDING FOR APPEALS; GRANTING THE DEPARTMENT RULEMAKING AUTHORITY; AMENDING SECTIONS 75-26-301, 75-26-304, 75-26-308, 75-26-309, AND 75-26-310, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 75-26-301, MCA, is amended to read:

“75-26-301. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) “Board” means the board of environmental review provided for in 2-15-3502.

(2) “Decommission” or “decommissioning” means:

(a) ~~the removal of an aboveground wind turbine tower after the end of a wind generation facility’s useful life or abandonment;~~

(b)(a) except as provided in 75-26-304(2), the removal of buildings, cabling, electrical components, roads, or any other ~~associated~~ facilities *associated with a wind generation or solar facility;* ~~and~~

(c)(b) except as provided in 75-26-304(2), reclamation of surface lands to the previous grade and to comparable productivity in order to prevent adverse hydrologic effects; *and*

(c) (i) *the removal of the solar facility after the end of the facility’s useful life or abandonment; or*

(ii) *the removal of an aboveground wind turbine tower after the end of a wind generation facility’s useful life or abandonment.*

(3) "Department" means the department of environmental quality provided for in 2-15-3501.

~~(4)~~(4) "Owner" means a person who owns a wind generation *or solar* facility used for the generation of electricity.

~~(5)~~(5) "Person" means any individual, firm, partnership, company, association, corporation, city, town, or local governmental entity or any other state, federal, or private entity, whether organized for profit or not.

~~(6)~~(6) "Repurposed" means having made a significant investment in an existing wind generation *or solar* facility to extend the useful life of the facility by more than 5 years.

(7) "*Solar facility*" means an installation or combination of solar panels or plates, including a canopy or array, that captures and converts solar radiation to produce electricity and includes flat plate, focusing solar collectors, or photovoltaic solar cells that:

(a) has a nameplate capacity greater than or equal to 2 megawatts; and

(b) produces electricity that is not consumed on the premises of the solar facility or on land immediately adjacent to the premises of the solar facility.

~~(7)~~(8) "Wind generation facility" means any combination of a physically connected wind turbine or turbines, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power from wind *and* that have a nameplate capacity greater than or equal to 25 megawatts."

Section 2. Section 75-26-304, MCA, is amended to read:

"75-26-304. Bond – penalty for failure to submit. (1) ~~(a) On or before July 1, 2018, the~~ *Within 12 months of a wind generation facility or solar facility commencing commercial operation, the owner of a wind generation facility or solar facility operating in Montana shall:*

~~(a)~~(i) notify the department in writing of the date that the facility began commercial operation;

~~(b)~~(ii) subject to subsection (2), submit a plan for decommissioning the facility to the department, including the scope of work to be completed and cost estimates for completion; and

~~(c)~~(iii) provide the department with any other necessary information in accordance with this part and rules adopted pursuant to this part in order for the department to determine bond requirements in accordance with this section.

(b) Except as provided in subsection (1)(c), if a wind generation facility or solar facility commenced commercial operation before [the effective date of this act], the owner of the facility shall submit to the department the information required in subsection (1)(a) on or before July 1, 2020.

(c) If a wind generation facility commenced commercial operation before [the effective date of this act] and the owner of the facility submitted information required by subsection (1)(a) on or before July 1, 2018, the owner is not required to resubmit the information.

(2) If a property owner and the owner of a wind generation *facility or solar* facility reach an agreement concerning alternative restoration of buildings, cabling, electrical components, roads, or any other associated facilities, instead of removal; *or alternative plans for reclamation of surface lands;* or both, ~~alternative restoration and alternative plans for reclamation;~~ decommissioning does not include removal, plans for reclamation, or both, as long as a copy of the agreement is provided to the department.

(3) (a) If necessary, the department may modify a plan for decommissioning to determine bond requirements in accordance with subsections (4) through (8).

(b) *The department shall notify the owner of the facility of any modification. The owner of the wind generation facility or solar facility may appeal a modification by the department of a plan for decommissioning to the board within 60 days of receiving notice of the modification to the plan.*

(4) In determining the amount of a bond required in accordance with subsection (6), the department shall consider:

(a) the character and nature of the site where the wind generation *facility or solar* facility is located; and

(b) the current market salvage value of the wind generation *facility or solar* facility, as determined by an independent evaluator.

(5) Except as provided in subsections (7) and (8) and in accordance with subsection (6), the owner of a wind generation *facility or solar* facility shall submit to the department a bond payable to the state of Montana in a form acceptable by the department and in the sum determined by the department, conditioned on the faithful decommissioning of the wind generation *facility or solar* facility.

(6) (a) Except as provided in subsections (7) and (8), if a wind generation *facility or solar* facility commenced commercial operation on or before January 1, 2007, the operator shall submit the decommissioning bond to the department prior to the conclusion of the 16th year of operation of the wind generation *facility or solar* facility.

(b) Except as provided in subsections (7) and (8), if a wind generation *facility or solar* facility commenced commercial operation after January 1, 2007, the operator shall submit the decommissioning bond to the department prior to the conclusion of the 15th year of operation of the wind generation *facility or solar* facility.

(7) If a wind generation *facility or solar* facility is repurposed, as determined by the department in consultation with the owner, the owner is not required to provide a bond, and any existing bond must be released until the repurposed facility reaches its 5th year of operation.

(8) An owner of a wind generation *facility or solar* facility is exempt from the requirements of subsection (6) if:

(a) the owner posts a bond with a federal agency, with the department of natural resources and conservation for the lease of state land, or with a tribal, county, or local government;

(b) *the owner furnishes documents to the department that prove the owner is responsible under the terms and conditions of a lease agreement to provide private bonding. The parties shall agree that release of the agreed upon bond is subject to the approval of the department upon completion of reclamation.*

(b)(c) the private landowner on whose land the wind generation *facility or solar* facility is located owns a 10% or greater share of the wind generation *facility or solar* facility, as determined by the department; or

(c)(d) the ~~wind generation~~ facility:

(i) commenced commercial operation on or before January 1, 2018, ~~is a wind generation facility and has less than 25 megawatts in nameplate capacity, and has less than 25 megawatts in nameplate capacity; or~~

(ii) commenced commercial operation on or before January 1, 2020, ~~is a solar facility, and has less than 2 megawatts in nameplate capacity.~~

(9) (a) If the owner of the wind generation *facility or solar* facility fails to submit a decommissioning bond acceptable to the department within the timeframe required by this section, the department *shall provide notice to*

the facility owner. If after 30 days the owner of a wind generation facility or solar facility has not submitted a decommissioning bond, the department may assess an administrative penalty of not more than \$1,500; and an additional administrative penalty of not more than \$1,500 for each day the failure to submit the decommissioning bond continues.

(b) The owner of the wind generation *facility or solar* facility may appeal the department's penalty assessment to the board within 20 days after receipt of written notice of the penalty. The contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, apply to a hearing before the board under this subsection (9).

(10) If the owner of a wind generation *facility or solar* facility transfers ownership of the facility to a successor owner, the first owner's bond must be released after 90 days. The new owner shall submit any necessary bond within 90 days after transfer of ownership or be subject to penalties in accordance with this section.

(11) Once every 5 years, the owner of a wind generation *facility or solar* facility may *submit an amended plan for the department's approval. As part of the submission, the owner of a wind generation facility or solar facility may also* apply to the department for a reduction in the amount of the decommissioning bond applicable to the wind energy *facility or solar* facility. The owner's application to the department must include a detailed description of any material changes to information considered by the department in setting the initial amount of the bond.

(12) Submitting a bond in accordance with this section does not absolve the owner of a wind generation *facility or solar* facility from complying with applicable regulations and requirements for:

- (a) areas subject to local zoning adopted under Title 76, chapter 2;
- (b) military affected areas under Title 10, chapter 1, part 15; or
- (c) airport affected areas under Title 67, chapter 7."

Section 3. Section 75-26-308, MCA, is amended to read:

"75-26-308. Wind and solar decommissioning account – use of existing resources. (1) There is a wind *and solar* decommissioning account within the state special revenue fund established in 17-2-102. There must be paid into the account:

- (a) penalties collected in accordance with 75-26-304(9); and
- (b) interest income earned on the account.

(2) Funds in the wind *and solar* decommissioning account are statutorily appropriated, as provided in 17-7-502, to the department.

(3) (a) Money in the account may only be used by the department in implementing this part and rules adopted pursuant to this part.

(b) The department shall administer this part using existing resources and money in the account pursuant to subsection (1).

(4) The department shall maintain and hold bonds or other surety received by the department as authorized in 75-26-304 for use in accordance with this part."

Section 4. Section 75-26-309, MCA, is amended to read:

"75-26-309. Release of bond – use of bond by department. (1) (a) Subject to subsection (1)(b), the department shall release the bond if it is satisfied that an owner has properly decommissioned a wind generation *facility or solar* facility *in accordance with the plan required in 75-26-304.*

(b) At any time, an owner of a wind generation *facility or solar* facility may petition the department for release of the bond, and the department shall reply with a determination within 90 days.

(2) If the owner of a wind generation *facility or solar* facility fails to properly decommission a wind generation *facility or solar* facility and has not commenced action to rectify deficiencies within 90 days after notification by the department, the department shall cause the bond to be forfeited. The department, with staff, equipment, and material under its control or by contract with others, may take any necessary actions to decommission the wind generation *facility or solar* facility.”

Section 5. Section 75-26-310, MCA, is amended to read:

“75-26-310. Rulemaking. ~~On or before January 1, 2018, the~~ *The* department shall adopt rules prescribing:

(1) standards and procedures for the submission of reasonable bonds with good and sufficient surety by the owners of wind generation *facilities and solar* facilities;

(2) the collection of penalties in accordance with 75-26-304(9);

(3) criteria and the process for releasing a bond in accordance with 75-26-309;

(4) the department’s use of a bond in the event that the owner of a wind generation *facility or solar* facility fails to decommission a wind generation *facility or solar* facility;

(5) information required by the department to determine bond requirements in accordance with 75-26-304; and

(6) any additional requirements to ensure compliance with this part.”

Section 6. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 7. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 8. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2019

CHAPTER NO. 305

[SB 132]

AN ACT PROTECTING STUDENTS FROM SEXUAL MISCONDUCT; PROVIDING THAT A STUDENT CANNOT PROVIDE CONSENT TO ANY EMPLOYEE, CONTRACTOR, OR VOLUNTEER OF A SCHOOL; PROHIBITING JOB ASSISTANCE FOR SCHOOL EMPLOYEES, CONTRACTORS, AND AGENTS WHO HAVE ENGAGED IN SEXUAL MISCONDUCT WITH STUDENTS OR CHILDREN; AMENDING SECTIONS 45-5-501 AND 45-5-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

WHEREAS, present law does not adequately protect students aged 16 or older from predatory adults in positions of authority over them; and

WHEREAS, protecting students from sexual predators is of paramount concern to the State of Montana; and

WHEREAS, in 2015 Congress reauthorized the Elementary and Secondary Education Act of 1965 (ESEA) through the Every Student Succeeds Act, Pub. L. No. 114-95; and

WHEREAS, as amended, section 8546 of the ESEA (20 U.S.C. 7926) requires states as well as state and local education agencies receiving federal

funds to adopt policies to prohibit the aiding and abetting of sexual abuse by school employees, contractors, and agents; and

WHEREAS, job search assistance and favorable job recommendations enable offenders to continue to victimize new students, sometimes for years.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 45-5-501, MCA, is amended to read:

“45-5-501. Definitions. (1) (a) As used in 45-5-502, 45-5-503, and 45-5-508, the term “consent” means words or overt actions indicating a freely given agreement to have sexual intercourse or sexual contact and is further defined but not limited by the following:

(i) an expression of lack of consent through words or conduct means there is no consent or that consent has been withdrawn;

(ii) a current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue does not constitute consent; and

(iii) lack of consent may be inferred based on all of the surrounding circumstances and must be considered in determining whether a person gave consent.

(b) Subject to subsections (1)(c), ~~and (1)(d), and (1)(e)~~, the victim is incapable of consent because the victim is:

(i) mentally disordered or incapacitated;

(ii) physically helpless;

(iii) overcome by deception, coercion, or surprise;

(iv) less than 16 years old;

(v) incarcerated in an adult or juvenile correctional, detention, or treatment facility or is on probation or parole and the perpetrator is an employee, contractor, or volunteer of the supervising authority and has supervisory or disciplinary authority over the victim, unless the act is part of a lawful search;

(vi) receiving services from a youth care facility, as defined in 52-2-602, and the perpetrator:

(A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

(B) is an employee, contractor, or volunteer of the youth care facility; or

(vii) admitted to a mental health facility, as defined in 53-21-102, is admitted to a community-based facility or a residential facility, as those terms are defined in 53-20-102, or is receiving community-based services, as defined in 53-20-102, and the perpetrator:

(A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

(B) is an employee, contractor, or volunteer of the facility or community-based service; or

(viii) *a student of an elementary or secondary school and the perpetrator is not a student of an elementary or secondary school and is an employee, contractor, or volunteer of an elementary or secondary school who has ever had instructional, supervisory, disciplinary, or other authority over the student in an elementary or secondary school setting and knows, reasonably should know, or should have known the victim is a student at an elementary or secondary school. Employees, contractors, and volunteers include but are not limited to principals, teachers, student teachers, aides, paraprofessionals, monitors, assistants, administrative employees, bus drivers, cafeteria workers, maintenance workers and custodians, coaches, crossing guards, security workers, medical professionals, and mental health professionals.*

(c) Subsection (1)(b)(v) does not apply if the individuals are married to each other and one of the individuals involved is on probation or parole and the other individual is a probation or parole officer of a supervising authority.

(d) Subsections (1)(b)(vi) and (1)(b)(vii) do not apply if the individuals are married to each other and one of the individuals involved is a patient in or resident of a facility, is a recipient of community-based services, or is receiving services from a youth care facility and the other individual is an employee, contractor, or volunteer of the facility or community-based service.

(e) *Subsection (1)(b)(viii) does not apply if the individuals are married to each other.*

(2) As used in 45-5-508, the term “force” means:

(a) the infliction, attempted infliction, or threatened infliction of bodily injury or the commission of a forcible felony by the offender; or

(b) the threat of substantial retaliatory action that causes the victim to reasonably believe that the offender has the ability to execute the threat.

(3) As used in 45-5-502 and this section, the following definitions apply:

(a) “Parole”:

(i) in the case of an adult offender, has the meaning provided in 46-1-202; and

(ii) in the case of a juvenile offender, means supervision of a youth released from a state youth correctional facility, as defined in 41-5-103, to the supervision of the department of corrections.

(b) “Probation” means:

(i) in the case of an adult offender, release without imprisonment of a defendant found guilty of a crime and subject to the supervision of a supervising authority; and

(ii) in the case of a juvenile offender, supervision of the juvenile by a youth court pursuant to Title 41, chapter 5.

(c) “Supervising authority” includes a court, including a youth court, a county, or the department of corrections.”

Section 2. Section 45-5-502, MCA, is amended to read:

“45-5-502. Sexual assault. (1) A person who knowingly subjects another person to any sexual contact without consent commits the offense of sexual assault.

(2) (a) On a first conviction for sexual assault, the offender shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(b) On a second conviction for sexual assault, the offender shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both.

(c) On a third and subsequent conviction for sexual assault, the offender shall be fined an amount not to exceed \$10,000 or be imprisoned for a term not to exceed 5 years, or both.

(3) If the victim is less than 16 years old and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing sexual assault, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years, unless the judge makes a written finding that there is good cause to impose a term of less than 4 years and imposes a term of less than 4 years, or more than 100 years and may be fined not more than \$50,000.

(4) An act “in the course of committing sexual assault” includes an attempt to commit the offense or flight after the attempt or commission.

(5) (a) Subject to subsections (5)(b), and (5)(c), and (5)(d), consent is ineffective under this section if the victim is:

(i) incarcerated in an adult or juvenile correctional, detention, or treatment facility or is on probation or parole and the perpetrator is an employee, contractor, or volunteer of the supervising authority and has supervisory or disciplinary authority over the victim, unless the act is part of a lawful search;

(ii) less than 14 years old and the offender is 3 or more years older than the victim;

(iii) receiving services from a youth care facility, as defined in 52-2-602, and the perpetrator:

(A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

(B) is an employee, contractor, or volunteer of the youth care facility; or

(iv) admitted to a mental health facility, as defined in 53-21-102, is admitted to a community-based facility or a residential facility, as those terms are defined in 53-20-102, or is receiving community-based services, as defined in 53-20-102, and the perpetrator:

(A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

(B) is an employee, contractor, or volunteer of the facility or community-based service; or

(v) *a student of an elementary or secondary school and the perpetrator is not a student of an elementary or secondary school and is an employee, contractor, or volunteer of an elementary or secondary school who has ever had instructional, supervisory, disciplinary, or other authority over the student in an elementary or secondary school setting and knows, reasonably should know, or should have known the victim is a student at an elementary or secondary school. Employees, contractors, and volunteers include but are not limited to principals, teachers, student teachers, aides, paraprofessionals, monitors, assistants, administrative employees, bus drivers, cafeteria workers, maintenance workers and custodians, coaches, crossing guards, security workers, medical professionals, and mental health professionals.*

(b) Subsection (5)(a)(i) does not apply if one of the parties is on probation or parole and the other party is a probation or parole officer of the supervising authority and the parties are married to each other.

(c) Subsections (5)(a)(iii) and (5)(a)(iv) do not apply if the individuals are married to each other and one of the individuals involved is a patient in or resident of a facility, is a recipient of community-based services, or is receiving services from a youth care facility and the other individual is an employee, contractor, or volunteer of the facility or community-based service.

(d) *Subsection (5)(a)(v) does not apply if the individuals are married to each other."*

Section 3. Employment assistance for current or former school employees, contractors, and volunteers engaged in sexual misconduct prohibited.

(1) Except as provided in subsection (2), a person who is an officer, trustee, employee, agent, or contractor of a school, school district, county superintendent of schools, or the state superintendent of public instruction and who knows or has probable cause to believe that a current or former school employee, contractor, or agent has committed or has attempted, solicited, or conspired to commit an act with a child or enrolled student that constitutes a violation of 45-5-502, 45-5-503, 45-5-504, 45-5-507, 45-5-508, 45-5-601, 45-5-602, 45-5-603, 45-5-625, 45-5-702, 45-5-704, or 45-5-705 may not assist that school employee, contractor, or agent in obtaining new employment apart from the routine transmission of administrative and personnel files.

(2) Subsection (1) does not apply if:

(a) the information giving rise to probable cause has been properly reported to a law enforcement agency with jurisdiction over the alleged violation;

(b) the information has been properly reported to any other authorities as required by the laws of the United States, the state, or any political subdivision of the state, including but not limited to reporting required by Title 41, chapter 3, part 2, and Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq., and the regulations implementing that title under Title 34, part 106, Code of Federal Regulations, or any succeeding regulations; and

(c) (i) a peace officer, city attorney, or county attorney with jurisdiction over the alleged misconduct has notified school officials that there is insufficient information to establish probable cause that the school employee, contractor, or agent committed or attempted, solicited, or conspired to commit an act with a child or pupil constituting a violation of the offenses listed in subsection (1);

(ii) the school employee, contractor, or agent has been charged with and acquitted or otherwise exonerated of the alleged violation; or

(iii) there have been no charges filed against the school employee, contractor, or agent within 4 years of the date on which the information was reported to a law enforcement agency.

(3) This section applies to current or former school employees, contractors, and agents of both public and nonpublic schools.

Section 4. Penalty. A person who purposely or knowingly assists a current or former school employee, contractor, or agent in obtaining employment in violation of [section 3] is guilty of a misdemeanor and shall be fined in an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both.

Section 5. Codification instruction. [Sections 3 and 4] are intended to be codified as an integral part of Title 20, chapter 7, part 13, and the provisions of Title 20, chapter 7, part 13, apply to [sections 3 and 4].

Section 6. Coordination instruction. If House Bill No. 173 is passed and approved and if it includes a section that amends 45-5-501, then [section 1 of this act] amending 45-5-501 is void.

Section 7. Coordination instruction. If House Bill No. 173 is passed and approved and if it includes a section that amends 45-5-502, then [section 2 of this act] amending 45-5-502 is void.

Section 8. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 9. Effective date. [This act] is effective on passage and approval.

Section 10. Applicability. [This act] applies to incidents occurring on or after [the effective date of this act].

Approved May 7, 2019

CHAPTER NO. 306

[SB 133]

AN ACT REVISING ELIGIBILITY REQUIREMENTS FOR LIVESTOCK LOSS MITIGATION PAYMENTS; REQUIRING THE DEPARTMENT OF REVENUE TO CERTIFY PER CAPITA PAYMENTS TO THE LIVESTOCK LOSS BOARD; PROHIBITING LIVESTOCK LOSS MITIGATION PAYMENT

WITHOUT PROOF OF PER CAPITA FEE PAYMENT; AND AMENDING SECTION 2-15-3112, MCA.

WHEREAS, the livestock loss mitigation program, predatory animal control through per capita livestock fees, and the county bounty program are the three state programs to help farmers, ranchers, and other livestock owners cope with losses of livestock to wild predators; and

WHEREAS, the livestock loss mitigation program compensates farmers, ranchers, and other livestock owners for losses caused by wolves, mountain lions, and grizzly bears; and

WHEREAS, in 2017, farmers, ranchers, and other livestock owners were reimbursed for the loss of 145 head of cattle, 54 sheep, 15 goats, and 4 swine to wolves, mountain lions, and grizzly bears through the livestock loss mitigation program; and

WHEREAS, per capita fees are assessed on ranchers, farmers, and other livestock owners to fund the department of livestock's predatory animal control program and to protect against coyote, red fox, and other predatory animals; and

WHEREAS, for these programs, the U.S. Department of Agriculture's Wildlife Services plays an integral role, from dispatching predators to confirming predator kills; and

WHEREAS, because the livestock loss mitigation program and predatory animal control through per capita livestock fees are integral programs for Montana farmers, ranchers, and livestock owners, it stands to reason that producers who pay to maintain this system should be the ones who benefit.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-3112, MCA, is amended to read:

"2-15-3112. Livestock loss mitigation program – definitions. The livestock loss board shall establish and administer a program to reimburse livestock producers for livestock losses caused by wolves, mountain lions, and grizzly bears, subject to the following provisions:

(1) The board shall establish eligibility requirements for reimbursement, which must provide that all Montana livestock producers are eligible for coverage for losses by wolves, mountain lions, and grizzly bears to cattle, swine, horses, mules, sheep, goats, llamas, and livestock guard animals on state, federal, and private land and on tribal land that is eligible through agreement pursuant to 2-15-3113(2).

(2) (a) Confirmed and probable livestock losses must be reimbursed at an amount not to exceed fair market value as determined by the board.

(b) *Before the board may issue a reimbursement for losses to a livestock producer eligible for coverage for losses, the department of revenue shall certify that the livestock producer has paid per capita fees as required by 15-24-921. Except for a tribal member or tribal entity participating in an authorized agreement pursuant to 2-15-3113, a livestock producer may not receive a reimbursement for losses until the producer has paid any delinquent per capita fees.*

(3) Other losses may be reimbursed at rates determined by the board.

(4) A claim process must be established to be used when a livestock producer suffers a livestock loss for which wolves, mountain lions, or grizzly bears may be responsible. The claim process must set out a clear and concise method for documenting and processing claims for reimbursement for livestock losses.

(5) A process must be established to allow livestock producers to appeal reimbursement decisions. A producer may appeal a staff adjuster's decision by notifying the staff adjuster and the board in writing, stating the reasons

for the appeal and providing documentation supporting the appeal. If the documentation is incomplete, the board or a producer may consult with the U.S. department of agriculture wildlife services to complete the documentation. The board may not accept any appeal on the question of whether the loss was or was not a confirmed or probable loss because that final determination lies solely with the U.S. department of agriculture wildlife services and may not be changed by the board. The board shall hold a hearing on the appeal within 90 days of receipt of the written appeal, allowing the staff adjuster and the producer to present their positions. A decision must be rendered by the board within 30 days after the hearing. The producer must be notified in writing of the board's decision.

(6) As used in this section, the following definitions apply:

(a) "Confirmed" means reasonable physical evidence that livestock was actually attacked or killed by a wolf, mountain lion, or grizzly bear, including but not limited to the presence of bite marks indicative of the spacing of tooth punctures of wolves, mountain lions, or grizzly bears and associated subcutaneous hemorrhaging and tissue damage indicating that the attack occurred while the animal was alive, feeding patterns on the carcass, fresh tracks, scat, hair rubbed off on fences or brush, eyewitness accounts, or other physical evidence that allows a reasonable inference of wolf, mountain lion, or grizzly bear predation on an animal that has been largely consumed.

(b) "Fair market value" means:

(i) for commercial sheep more than 1 year old, the average price of sheep of similar age and sex paid at the most recent Billings livestock sale ring or other ring as determined by the board;

(ii) for commercial lambs, the average market weaning value;

(iii) for registered sheep, the average price paid to the specific breeder for sheep of similar age and sex during the past year at public or private sales for that registered breed;

(iv) for commercial cattle more than 1 year old, the average price of cattle of similar age and sex paid at the most recent Billings livestock sale ring or other ring as determined by the board;

(v) for commercial calves, the average market weaning value;

(vi) for registered cattle, the average price paid to the owner for cattle of similar age and sex during the past year at public or private sales for that registered breed;

(vii) for other registered livestock, the average price paid to the producer at public or private sales for animals of similar age and sex. A producer may provide documentation that a registered animal has a fair market value in excess of the average price, in which case the board shall seek additional verification of the value of the animal from independent sources. If the board determines that the value of that animal is greater than the average price, then the increased value must be accepted as the fair market value for that animal.

(viii) for other livestock, the average price paid at the most recent public auction for the type of animal lost or the replacement price as determined by the board.

(c) "Probable" means the presence of some evidence to suggest possible predation but a lack of sufficient evidence to clearly confirm predation by a particular species. A kill may be classified as probable depending on factors including but not limited to recent confirmed predation by the suspected depredating species in the same or a nearby area, recent observation of the livestock by the owner or the owner's employees, and telemetry monitoring data,

sightings, howling, or fresh tracks suggesting that the suspected depredating species may have been in the area when the depredation occurred.”

Approved May 7, 2019

CHAPTER NO. 307

[SB 139]

AN ACT REVISING RETURN TO EMPLOYMENT PROVISIONS UNDER THE TEACHERS' RETIREMENT SYSTEM; REVISING THE CRITERIA TO BE MET FOR A RETIREE TO RETURN TO EMPLOYMENT IN SPECIAL CIRCUMSTANCES WITHOUT LOSS OF RETIREMENT BENEFITS; REVISING REPORTING TO LEGISLATIVE COMMITTEES; AMENDING SECTION 19-20-732, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 19-20-732, MCA, is amended to read:

“19-20-732. Reemployment of certain retired teachers, specialists, and administrators – procedure – definitions. (1) Subject to the provisions of this section:

(a) a teacher, specialist, or administrator who has been receiving a retirement allowance for no less than 2 months, except a disability retirement allowance pursuant to part 9 of this chapter, may be employed on a full-time basis by an employer for a maximum of 3 3 years during the lifetime of the retired member without the loss or interruption of any payments or retirement benefits if:

(i) the retired member completed 30 27 or more years of creditable service prior to retirement;

(ii) the retired member holds a valid certificate pursuant to the provisions of 20-4-106; and

(iii) each year, prior to employing a retired member, the employer certifies to the office of public instruction and to the retirement board that after having advertised the position for that year the employer has been unable to fill the position because the employer either has received no qualified applications or has not received an acceptance of an offer of employment made to a nonretired teacher, specialist, or administrator; *The office of public instruction shall verify that the employer has advertised the position as required under this subsection (1)(a)(iii).*

(b) the employer certification required by this section must include the retired member's name and social security number and a copy of the proposed contract of employment for the retired member;

(c) upon receipt of the employer's certification and of the proposed contract of employment, the retirement board shall verify whether the retired member meets the requirements of subsection (1)(a)(i) and shall notify the employer and the retired member of its findings;

(d) a retired member reemployed under this section is ineligible for active membership under 19-20-302 and is ineligible to receive service credit under any retirement system identified in Title 19; and

(e) *by September 15 of each even-numbered year, the retirement board shall report to the appropriate education interim committee and the state administration and veterans' affairs interim committee each legislative session, as provided in 5-11-210, regarding the implementation of and results arising from this section.*

(2) An employer employing a retired member pursuant to this section shall contribute monthly to the retirement system an amount equal to the sum of the contribution rates required by 19-20-602, 19-20-604, 19-20-605, 19-20-607, 19-20-608, and 19-20-609.

(3) A retired member reemployed pursuant to this section is exempt from the earnings and employment limits provided in 19-20-731.

(4) If reemployed in a position covered by a collective bargaining agreement pursuant to Title 39, chapter 31, the retired member is subject to all the terms and conditions of the agreement and is entitled to all the benefits and protections of the agreement.

(5) The board may adopt rules to implement this section.

(6) As used in this section, the following definitions apply:

(a) *“Administrator” means a school principal or district administrator other than a superintendent.*

(a)(b) *“Employer” means a school district as defined in 20-6-101 and 20-6-701 that employs a retired member and is a second-class or third-class elementary district under 20-6-201 or a second-class or third-class high school district under 20-6-301.*

(b)(c) *“Year” means all or any part of a school year.”*

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Applicability. [This act] applies to contracts initiated on or after [the effective date of this act].

Section 4. Termination. [This act] terminates June 30, 2025.

Approved May 7, 2019

CHAPTER NO. 308

[SB 147]

AN ACT GENERALLY REVISING LAWS RELATED TO HUMAN TRAFFICKING AND SEX CRIMES TO PROTECT VICTIMS; REVISING THE OFFENSE OF PROSTITUTION TO INCLUDE DIRECT SEXUAL CONTACT; REVISING PENALTIES FOR PROSTITUTION OFFENSES TO ALLOW FOR AGGRAVATED PENALTIES FOR PERSONS WHO PROMOTE PROSTITUTION AND TO ALLOW FOR AGGRAVATED PENALTIES WHEN THE OFFENDER KNEW OR SHOULD HAVE KNOWN THAT THE VICTIM WAS A HUMAN TRAFFICKING VICTIM OR SUBJECTED TO FORCE, FRAUD, OR COERCION; REVISING THE DEFINITION OF A CRIME OF VIOLENCE TO INCLUDE AGGRAVATED PROMOTION OF PROSTITUTION AND HUMAN TRAFFICKING OFFENSES; PROVIDING THAT A PERSON'S CONSENT IS NOT A DEFENSE TO HUMAN TRAFFICKING AND SEX CRIMES IF THE ACCUSED KNEW OR REASONABLY SHOULD HAVE KNOWN THE PERSON WAS A VICTIM OF HUMAN TRAFFICKING OR WAS SUBJECTED TO FORCE, FRAUD, OR COERCION; REFORMING LAWS RELATED TO HUMAN TRAFFICKING TO CONFORM PENALTIES AND LANGUAGE TO LAWS RELATED TO SEX CRIMES; AMENDING SECTIONS 45-2-211, 45-5-601, 45-5-602, 45-5-603, 45-5-702, 45-5-704, 45-5-705, 45-5-709, 46-18-104, 46-18-111, 46-18-207, 46-18-219, 46-18-231, AND 46-23-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 45-2-211, MCA, is amended to read:

"45-2-211. Consent as defense. (1) The consent of the victim to conduct charged to constitute an offense or to the result thereof is a defense.

(2) Consent is ineffective if:

(a) it is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense;

(b) it is given by a person who by reason of youth, mental disease or disorder, or intoxication is unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense;

(c) it is induced by force, duress, or deception; or

(d) it is against public policy to permit the conduct or the resulting harm, even though consented to; or

(e) *for offenses under 45-5-502, 45-5-503, 45-5-508, 45-5-601, 45-5-602, 45-5-603, or Title 45, chapter 5, part 7, it is given by a person who the offender knew or reasonably should have known was a victim of human trafficking, as defined in 45-5-701, or was subjected to force, fraud, or coercion, either of which caused the person to be in the situation where the offense occurred."*

Section 2. Section 45-5-601, MCA, is amended to read:

"45-5-601. Prostitution – patronizing a prostitute – exception.

(1) ~~A Except as provided in subsection (2)(a), person commits the offense of prostitution is committed if the a person engages in or agrees or offers to engage in sexual intercourse or sexual contact that is direct and not through clothing with another person for compensation, whether the compensation is received or to be received or paid or to be paid.~~

(2) (a) ~~A prostitute may be convicted of prostitution only if the prostitute engages in or agrees or offers to engage in sexual intercourse with another person for compensation, whether the compensation is received or to be received or paid or to be paid. A prostitute who is convicted of prostitution shall~~ may be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(b) ~~A patron may be convicted of patronizing a prostitute if the patron engages in or agrees or offers to engage in sexual intercourse or sexual contact that is direct and not through clothing with another person for compensation, whether the compensation is received or to be received or paid or to be paid. Except as provided in subsection (3) subsections (3) and (4), a patron who is convicted of prostitution shall for the first offense be fined an amount not to exceed \$1,000 or be imprisoned for a term not to exceed 1 year, or both, and for a second or subsequent offense shall be fined an amount not to exceed \$10,000 or be imprisoned for a term not to exceed 5 years, or both.~~

(3) (a) If the person patronized was a child and the patron was 18 years of age or older at the time of the offense, whether or not the patron was aware of the child's age, the patron offender:

(i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (3)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the offender is not eligible for parole.

(ii) may be fined an amount not to exceed \$50,000; and

(iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of

corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.

(4) If the person patronized was a victim of human trafficking, as defined in 45-5-701, or was subjected to force, fraud, or coercion, either of which caused the person to be in the situation where the offense occurred, and the patron offender was 18 years of age or older at the time of the offense and knew or reasonably should have known that the person patronized was a victim of human trafficking or was subjected to force, fraud, or coercion, the patron offender:

(a) shall be punished by imprisonment in a state prison for a term of up to 10 years; and

(b) may be fined an amount not to exceed \$25,000.

(5) It is not a violation of 45-5-602, 45-5-603, or this section for a person with an impaired physical ability, physical dysfunction, recent injury, or other disability to engage in sex therapy with a partner surrogate who is working under the supervision of a social worker, professional counselor, or licensed clinical professional counselor licensed under Title 37, chapter 22 or 23."

Section 3. Section 45-5-602, MCA, is amended to read:

"45-5-602. Promoting prostitution. (1) A person commits the offense of promoting prostitution if the person purposely or knowingly commits any of the following acts:

(a) owns, controls, manages, supervises, resides in, or otherwise keeps, alone or in association with others, a house of prostitution or a prostitution business;

(b) procures an individual for a house of prostitution or a place in a house of prostitution for an individual;

(c) encourages, induces, or otherwise purposely causes another to become or remain a prostitute;

(d) solicits clients for another person who is a prostitute;

(e) procures a prostitute for a patron;

(f) transports an individual into or within this state with the purpose to promote that individual's engaging in prostitution or procures or pays for transportation with that purpose;

(g) leases or otherwise permits a place controlled by the offender, alone or in association with others, to be regularly used for prostitution or for the procurement of prostitution or fails to make reasonable effort to abate that use by ejecting the tenant, notifying law enforcement authorities, or using other legally available means; or

(h) lives in whole or in part upon the earnings of an individual engaging in prostitution, unless the person is the prostitute's minor child or other legal dependent incapable of self-support.

(2) Except as provided in ~~subsection (3)~~ *subsections (3) and (4)*, a person convicted of promoting prostitution shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

(3) (a) If the person engaging in prostitution was a child and the ~~patron~~ *offender* was 18 years of age or older at the time of the offense, whether or not the ~~patron~~ *offender* was aware of the child's age, the ~~patron~~ *offender*:

(i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (3)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the offender is not eligible for parole.

(ii) may be fined an amount not to exceed \$50,000; and

(iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.

(4) If the person engaging in prostitution was a victim of human trafficking, as defined in 45-5-701, or was subjected to force, fraud, or coercion, either of which caused the person to be in the situation where the offense occurred, and the offender was 18 years of age or older at the time of the offense and knew or reasonably should have known that the person was a victim of human trafficking or was subjected to force, fraud, or coercion, the offender:

(a) shall be punished by imprisonment in a state prison for a term of not more than 20 years; and

(b) may be fined an amount not to exceed \$50,000."

Section 4. Section 45-5-603, MCA, is amended to read:

"45-5-603. Aggravated promotion of prostitution. (1) A person commits the offense of aggravated promotion of prostitution if the person purposely or knowingly commits any of the following acts:

(a) compels another to engage in or promote prostitution;

(b) promotes prostitution of a child, whether or not the person is aware of the child's age;

(c) promotes the prostitution of one's spouse, child, ward, or any person for whose care, protection, or support the person is responsible.

(2) (a) Except as provided in ~~subsection (2)(b)~~ *subsections (2)(b) and (2)(c)*, a person convicted of aggravated promotion of prostitution shall be punished by:

(i) life imprisonment; or

(ii) imprisonment in a state prison for a term not to exceed 20 years or a fine in an amount not to exceed \$50,000, or both.

(b) (i) Except as provided in 46-18-219 and 46-18-222, if the person engaging in prostitution was a child and the ~~patron~~ *offender* was 18 years of age or older at the time of the offense, the ~~patron~~ *offender*:

(A) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (2)(b)(i)(A) except as provided in 46-18-222, and during the first 25 years of imprisonment, the offender is not eligible for parole.

(B) may be fined an amount not to exceed \$50,000; and

(C) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections.

(ii) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010.

(c) If the person engaging in prostitution was a victim of human trafficking, as defined in 45-5-701, or was subjected to force, fraud, or coercion, either of which caused the person to be in the situation where the offense occurred, and the offender was 18 years of age or older at the time of the offense and knew or reasonably should have known that the person was a victim of human trafficking or was subjected to force, fraud, or coercion, the offender:

(i) shall be punished by imprisonment in a state prison for a term of not more than 30 years;

(ii) *may be fined an amount not to exceed \$50,000; and*
(iii) *shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections."*

Section 5. Section 45-5-702, MCA, is amended to read:

"45-5-702. Trafficking of persons. (1) A person commits the offense of trafficking of persons if the person purposely or knowingly:

(a) recruits, transports, transfers, harbors, receives, provides, obtains, isolates, maintains, or entices another person intending or knowing that the person will be subjected to involuntary servitude or sexual servitude; or

(b) benefits, financially or by receiving anything of value, from *facilitating any conduct described in subsection (1)(a) or from* participation in a venture that has subjected another person to involuntary servitude or sexual servitude.

(2) (a) Except as provided in ~~subsection (2)(b)~~ *subsections (2)(b) and (2)(c)*, a person convicted of the offense of trafficking of persons shall be imprisoned in the state prison for a term of not more than 15 years, fined an amount not to exceed \$50,000, or both.

(b) A person convicted of the offense of trafficking of persons shall be imprisoned in the state prison for a term of not more than 50 years, ~~and may be fined not more than an amount not to exceed \$100,000, or both, if:~~

~~(i) the violation involves aggravated kidnapping, sexual intercourse without consent, or deliberate homicide; or~~

~~(ii) the victim was a child.~~

(c) A person convicted of the offense of trafficking of persons shall be imprisoned in the state prison for a term of not more than 25 years, fined an amount not to exceed \$75,000, or both, if the violation involves aggravated kidnapping, aggravated sexual intercourse without consent, or deliberate homicide."

Section 6. Section 45-5-704, MCA, is amended to read:

"45-5-704. Sexual servitude. (1) A person commits the offense of sexual servitude if the person purposely or knowingly:

(a) uses *fraud*, coercion, or deception to compel an adult to engage in commercial sexual activity; or

(b) recruits, transports, transfers, harbors, receives, provides, obtains by any means, isolates, entices, maintains, or makes available a child for the purpose of commercial sexual activity.

(2) It is not a defense in a prosecution under subsection (1)(b) that the child consented to engage in commercial sexual activity or that the defendant believed the child was an adult.

(3) (a) A person convicted of the offense of sexual servitude under subsection (1)(a) shall be imprisoned in the state prison for a term of not more than 15 years, fined an amount not to exceed \$50,000, or both.

(b) A person convicted of the offense of sexual servitude under subsection (1)(b) shall be imprisoned in the state prison for a term of not more than 25 years and fined an amount not to exceed \$75,000."

Section 7. Section 45-5-705, MCA, is amended to read:

"45-5-705. Patronizing victim of sexual servitude. (1) A person commits the offense of patronizing a victim of sexual servitude if the person purposely or knowingly gives, agrees to give, or offers to give anything of value so that a person may engage in commercial sexual activity ~~with:~~

(a) *that involves sexual contact that is direct and not through clothing with* another person who the person knows *or reasonably should have known* is a victim of sexual servitude; or

(b) *with a child.*

(2) (a) Except as provided in subsection (2)(b), a person convicted of the offense of patronizing a victim of sexual servitude shall be imprisoned in the state prison for a term of *not more than* 15 years, fined an amount not to exceed \$50,000, or both.

(b) If the individual patronized was a child, a person convicted of the offense of patronizing a victim of sexual servitude, whether or not the person believed the child was an adult, shall be imprisoned in the state prison for a term of not more than 25 years and fined an amount not to exceed \$75,000."

Section 8. Section 45-5-709, MCA, is amended to read:

"45-5-709. Immunity of child – sex therapy participants. (1) A person is not criminally liable or subject to proceedings under Title 41, chapter 5, for prostitution, promoting prostitution, or other nonviolent offenses if the person was a child at the time of the offense and committed the offense as a direct result of being a victim of human trafficking.

(2) A person who has engaged in commercial sexual activity is not criminally liable or subject to proceedings under Title 41, chapter 5, for prostitution ~~or promoting prostitution~~ if the person was a child at the time of the offense.

(3) A child who under subsection (1) or (2) is not subject to criminal liability or proceedings under Title 41, chapter 5, is presumed to be a youth in need of care under Title 41, chapter 3.

(4) ~~This section does~~ *Subsections (1) through (3) do* not apply in a prosecution under 45-5-601 or a proceeding under Title 41, chapter 5, for patronizing a prostitute.

(5) *It is not a violation of this part for a person with an impaired physical ability, physical dysfunction, recent injury, or other disability to engage in sex therapy with a partner surrogate who is working under the supervision of a social worker, professional counselor, or licensed clinical professional counselor licensed under Title 37, chapter 22 or 23."*

Section 9. Section 46-18-104, MCA, is amended to read:

"46-18-104. Definitions. As used in 46-18-101, 46-18-105, 46-18-201, 46-18-225, and this section, unless the context requires otherwise, the following definitions apply:

(1) "Community corrections" or "community corrections facility or program" means a community corrections facility or program as defined in 53-30-303.

(2) (a) "Crime of violence" means:

(i) a crime in which an offender uses or possesses and threatens to use a deadly weapon during the commission or attempted commission of a crime;

(ii) a crime in which the offender causes serious bodily injury or death to a person other than the offender; or

(iii) an offense under:

(A) 45-5-502 for which the maximum potential sentence is life imprisonment or imprisonment in a state prison for a term exceeding 1 year;

(B) 45-5-503, except as provided in subsection (2)(b) of this section; ~~or~~

(C) 45-5-507 if the victim is under 16 years of age and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing the offense;

(D) 45-5-508;

(E) 45-5-603;

(F) 45-5-702;

(G) 45-5-703;

(H) 45-5-704; or

(I) 45-5-705.

(b) In a prosecution under 45-5-503, if the sexual intercourse was without consent based solely on the victim's age, the victim willingly participated, and

the offender is not more than 3 years older than the victim, the offense is not a crime of violence for purposes of this section.

(3) “Nonviolent felony offender” means a person who has entered a plea of guilty or nolo contendere to a felony offense other than a crime of violence or who has been convicted of a felony offense other than a crime of violence.

(4) “Restorative justice” has the meaning provided in 2-15-2013.”

Section 10. Section 46-18-111, MCA, is amended to read:

“46-18-111. Presentence investigation – when required – definition.

(1) (a) (i) Upon the acceptance of a plea or upon a verdict or finding of guilty to one or more felony offenses, the district court shall direct the probation and parole officer to make a presentence investigation and report unless an investigation and report has been provided to the court prior to the plea or the verdict or finding of guilty.

(ii) Unless additional information is required under subsections (1)(b), (1)(c), or (1)(d) or unless more time is required to allow for victim input, a preliminary or final presentence investigation and report must be available to the court within 30 days of the plea or the verdict or finding of guilty.

(iii) The district court shall consider the presentence investigation report prior to sentencing.

(b) If the defendant was convicted of an offense under 45-5-502, 45-5-503, 45-5-504, 45-5-507, 45-5-508, 45-5-601(3), 45-5-602(3), 45-5-603(2)(b) or (2)(c), 45-5-625, 45-5-627, 45-5-704, 45-5-705, or 45-8-218 or if the defendant was convicted under 46-23-507 and the offender was convicted of failure to register as a sexual offender pursuant to Title 46, chapter 23, part 5, the investigation must include a psychosexual evaluation of the defendant and a recommendation as to treatment of the defendant in the least restrictive environment, considering the risk the defendant presents to the community and the defendant’s needs, unless the defendant was sentenced under 46-18-219. The evaluation must be completed by a sexual offender evaluator who is a member of the Montana sex offender treatment association or has comparable credentials acceptable to the department of labor and industry. The psychosexual evaluation must be made available to the county attorney’s office, the defense attorney, the probation and parole officer, and the sentencing judge. All costs related to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9. The district court may order subsequent psychosexual evaluations at the request of the county attorney. The requestor of any subsequent psychosexual evaluations is responsible for the cost of the evaluation.

(c) If the defendant was convicted of an offense under 45-5-212(2)(b) or (2)(c), the investigation may include a mental health evaluation of the defendant and a recommendation as to treatment of the defendant in the least restrictive environment, considering the risk the defendant presents to the community and the defendant’s needs. The evaluation must be completed by a qualified psychiatrist, licensed clinical psychologist, advanced practice registered nurse, or other professional with comparable credentials acceptable to the department of labor and industry. The mental health evaluation must be made available to the county attorney’s office, the defense attorney, the probation and parole officer, and the sentencing judge. All costs related to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9.

(d) When, pursuant to 46-14-311, the court has ordered a presentence investigation and a report pursuant to this section, the mental evaluation required by 46-14-311 must be attached to the presentence investigation report and becomes part of the report. The report must be made available to persons and entities as provided in 46-18-113.

(2) The court shall order a presentence investigation report unless the court makes a finding that a report is unnecessary. Unless the court makes that finding, a defendant convicted of any offense not enumerated in subsection (1) that may result in incarceration for 1 year or more may not be sentenced before a written presentence investigation report by a probation and parole officer is presented to and considered by the district court. The district court may order a presentence investigation for a defendant convicted of a misdemeanor only if the defendant was convicted of a misdemeanor that the state originally charged as a sexual or violent offense as defined in 46-23-502.

(3) The defendant shall pay to the department of corrections a \$50 fee at the time that the report is completed, unless the court determines that the defendant is not able to pay the fee within a reasonable time. The fee may be retained by the department and used to finance contracts entered into under 53-1-203(5).

(4) For the purposes of 46-18-112 and this section, "probation and parole officer" means:

(a) a probation and parole officer who is employed by the department of corrections pursuant to 46-23-1002; or

(b) an employee of the department of corrections who has received specific training or who possesses specific expertise to make a presentence investigation and report but who is not required to be licensed as a probation and parole officer by the public safety officer standards and training council created in 2-15-2029."

Section 11. Section 46-18-207, MCA, is amended to read:

"46-18-207. Sexual offender treatment. (1) Upon sentencing a person convicted of a sexual offense, as defined in 46-23-502, the court shall designate the offender as a level 1, 2, or 3 offender pursuant to 46-23-509.

(2) (a) Except as provided in subsection (2)(b), the court shall order an offender convicted of a sexual offense, as defined in 46-23-502, except an offense under 45-5-301 through 45-5-303, and sentenced to imprisonment in a state prison to:

(i) enroll in and successfully complete the educational phase of the prison's sexual offender treatment program;

(ii) if the person has been or will be designated as a level 3 offender pursuant to 46-23-509, enroll in and successfully complete the cognitive and behavioral phase of the prison's sexual offender treatment program; and

(iii) if the person is sentenced pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4) and is released on parole, remain in an outpatient sexual offender treatment program for the remainder of the person's life.

(b) A person who has been sentenced to life imprisonment without possibility of release may not participate in treatment provided pursuant to this section.

(3) A person who has been ordered to enroll in and successfully complete a phase of a state prison's sexual offender treatment program is not eligible for parole unless that phase of the program has been successfully completed as certified by a sexual offender evaluator to the board of pardons and parole.

(4) (a) Except for an offender sentenced pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b) or (2)(c), or 45-5-625(4),

during an offender's term of commitment to the department of corrections or a state prison, the department may place the person in a residential sexual offender treatment program approved by the department under 53-1-203.

(b) If the person successfully completes a residential sexual offender treatment program approved by the department of corrections, the remainder of the term must be served on probation unless the department petitions the sentencing court to amend the original sentencing judgment.

(5) If, following a conviction for a sexual offense as defined in 46-23-502, any portion of a person's sentence is suspended, during the suspended portion of the sentence the person:

(a) shall abide by the standard conditions of probation established by the department of corrections;

(b) shall pay the costs of imprisonment, probation, and any sexual offender treatment if the person is financially able to pay those costs;

(c) may have no contact with the victim or the victim's immediate family unless approved by the victim or the victim's parent or guardian, the person's therapists, and the person's probation officer;

(d) shall comply with all requirements and conditions of sexual offender treatment as directed by the person's sex offender therapist;

(e) may not enter an establishment where alcoholic beverages are sold for consumption on the premises or where gambling takes place;

(f) may not consume alcoholic beverages;

(g) shall enter and remain in an aftercare program as directed by the person's probation officer;

(h) shall submit to random or routine drug and alcohol testing;

(i) may not possess pornographic material or access pornography through the internet; and

(j) at the discretion of the probation and parole officer, may be subject to electronic monitoring or continuous satellite monitoring.

(6) The sentencing of a sexual offender is subject to 46-18-202(2) and 46-18-219.

(7) The sentencing court may, upon petition by the department of corrections, modify a sentence of a sexual offender to impose any part of a sentence that was previously suspended."

Section 12. Section 46-18-219, MCA, is amended to read:

"46-18-219. Life sentence without possibility of release. (1) (a) Except as provided in subsection (3), if an offender convicted of one of the following offenses was previously convicted of one of the following offenses or of an offense under the laws of another state or of the United States that, if committed in this state, would be one of the following offenses, the offender must be sentenced to life in prison, unless the death penalty is applicable and imposed:

(i) 45-5-102, deliberate homicide;

(ii) 45-5-303, aggravated kidnapping;

(iii) 45-5-625, sexual abuse of children;

(iv) 45-5-627, except subsection (1)(b), ritual abuse of a minor; or

(v) 45-5-508, aggravated sexual intercourse without consent.

(b) Except as provided in subsection (3), if an offender convicted of one of the following offenses was previously convicted of two of the following offenses, two of any combination of the offenses listed in subsection (1)(a) or the following offenses, or two of any offenses under the laws of another state or of the United States that, if committed in this state, would be one of the offenses listed in subsection (1)(a) or this subsection, the offender must be sentenced to life in prison, unless the death penalty is applicable and imposed:

- (i) 45-5-103, mitigated deliberate homicide;
- (ii) 45-5-202, aggravated assault;
- (iii) 45-5-215, strangulation of a partner or family member;
- (iv) 45-5-302, kidnapping;
- (v) 45-5-401, robbery; or
- (vi) 45-5-603(2)(b), aggravated promotion of prostitution *of a child*.

(2) Except as provided in 46-23-210 and subsection (3) of this section, an offender sentenced under subsection (1):

- (a) shall serve the entire sentence;
- (b) shall serve the sentence in prison;
- (c) may not for any reason, except a medical reason, be transferred for any length of time to another type of institution, facility, or program;
- (d) may not be paroled; and
- (e) may not be given time off for good behavior or otherwise be given an early release for any reason.

(3) If the offender was previously sentenced for either of two or three offenses listed in subsection (1), pursuant to any of the exceptions listed in 46-18-222, then the provisions of subsections (1) and (2) of this section do not apply to the offender's present sentence.

(4) The imposition or execution of the sentences prescribed by this section may not be deferred or suspended. In the event of a conflict between this section and any provision of 46-18-201 or 46-18-205, this section prevails.

(5) (a) For purposes of this section, "prison" means a secure detention facility in which inmates are locked up 24 hours a day and that is operated by this state, another state, the federal government, or a private contractor.

(b) Prison does not include a work release center, prerelease center, boot camp, or any other type of facility that does not provide secure detention."

Section 13. Section 46-18-231, MCA, is amended to read:

"46-18-231. Fines in felony and misdemeanor cases. (1) (a) Except as provided in subsection (1)(b), whenever, upon a verdict of guilty or a plea of guilty or nolo contendere, an offender has been found guilty of an offense for which a felony penalty of imprisonment could be imposed, the sentencing judge may, in lieu of or in addition to a sentence of imprisonment, impose a fine only in accordance with subsection (3).

(b) For those crimes for which penalties are provided in the following sections, a fine may be imposed in accordance with subsection (3) in addition to a sentence of imprisonment:

- (i) 45-5-103(4), mitigated deliberate homicide;
- (ii) 45-5-202, aggravated assault;
- (iii) 45-5-213, assault with a weapon;
- (iv) 45-5-302(2), kidnapping;
- (v) 45-5-303(2), aggravated kidnapping;
- (vi) 45-5-401(2), robbery;
- (vii) 45-5-502(3), sexual assault when the victim is less than 16 years old and the offender is 3 or more years older than the victim or the offender inflicts bodily injury in the course of committing the sexual assault;
- (viii) 45-5-503(2) through (5), sexual intercourse without consent;
- (ix) 45-5-507(5), incest when the victim is 12 years of age or younger and the offender is 18 years of age or older at the time of the offense;
- (x) 45-5-508, *aggravated sexual intercourse without consent*;
- ~~(x)~~(xi) 45-5-601(3) or (4), 45-5-602(3) or (4), or 45-5-603(2)(b) or (2)(c), prostitution, promotion of prostitution, or aggravated promotion of prostitution when the person patronized or engaging in prostitution was a child and the ~~patron~~ offender was 18 years of age or older at the time of the offense or when

the person engaging in prostitution was a victim of human trafficking, as defined in 45-5-701, or was subjected to force, fraud, or coercion, either of which caused the person to be in the situation where the offense occurred, and the offender was 18 years of age or older at the time of the offense and the offender knew or reasonably should have known that the person was a victim of human trafficking or was subjected to force, fraud, or coercion;

(xi)(xii) 45-5-625(4), sexual abuse of children;

(xiii) 45-5-702, 45-5-703, 45-5-704, or 45-5-705, trafficking of persons, involuntary servitude, sexual servitude, or patronizing a victim of sexual servitude;

(xii)(xiv) 45-9-101(4), criminal possession with intent to distribute a dangerous drug; and

(xiii)(xv) 45-9-109, criminal possession with intent to distribute dangerous drugs on or near school property.

(2) Whenever, upon a verdict of guilty or a plea of guilty or nolo contendere, an offender has been found guilty of an offense for which a misdemeanor penalty of a fine could be imposed, the sentencing judge may impose a fine only in accordance with subsection (3).

(3) The sentencing judge may not sentence an offender to pay a fine unless the offender is or will be able to pay the fine. In determining the amount and method of payment, the sentencing judge shall take into account the nature of the crime committed, the financial resources of the offender, and the nature of the burden that payment of the fine will impose.

(4) Any fine levied under this section in a felony case shall be in an amount fixed by the sentencing judge not to exceed \$50,000."

Section 14. Section 46-23-502, MCA, is amended to read:

"46-23-502. Definitions. As used in 46-18-255 and this part, the following definitions apply:

(1) "Department" means the department of corrections provided for in 2-15-2301.

(2) "Mental abnormality" means a congenital or acquired condition that affects the mental, emotional, or volitional capacity of a person in a manner that predisposes the person to the commission of one or more sexual offenses to a degree that makes the person a menace to the health and safety of other persons.

(3) "Municipality" means an entity that has incorporated as a city or town.

(4) "Personality disorder" means a personality disorder as defined in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders adopted by the American psychiatric association.

(5) "Predatory sexual offense" means a sexual offense committed against a stranger or against a person with whom a relationship has been established or furthered for the primary purpose of victimization.

(6) "Registration agency" means:

(a) if the offender resides in a municipality, the police department of that municipality; or

(b) if the offender resides in a place other than a municipality, the sheriff's office of the county in which the offender resides.

(7) (a) "Residence" means the location at which a person regularly resides, regardless of the number of days or nights spent at that location, that can be located by a street address, including a house, apartment building, motel, hotel, or recreational or other vehicle.

(b) The term does not mean a homeless shelter.

(8) “Sexual offender evaluator” means a person qualified under rules established by the department to conduct psychosexual evaluations of sexual offenders and sexually violent predators.

(9) “Sexual offense” means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-301 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-302 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-303 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-502 (if the offender is a professional licensed under Title 37 and commits the offense during any treatment, consultation, interview, or evaluation of a person’s physical or mental condition, ailment, disease, or injury), 45-5-502(3) (if the victim is less than 16 years of age and the offender is 3 or more years older than the victim), 45-5-503(1), (3), or (4), 45-5-504(2)(c), 45-5-504(3) (if the victim is less than 16 years of age and the offender is 4 or more years older than the victim), 45-5-507 (if the victim is less than 18 years of age and the offender is 3 or more years older than the victim or if the victim is 12 years of age or younger and the offender is 18 years of age or older at the time of the offense), 45-5-508, 45-5-601(3), 45-5-602(3), 45-5-603(1)(b) or (2)(b) or (2)(c), 45-5-625, 45-5-704, or 45-5-705; or

(b) any violation of a law of another state, a tribal government, or the federal government that is reasonably equivalent to a violation listed in subsection (9)(a) or for which the offender was required to register as a sexual offender after an adjudication or conviction.

(10) “Sexual or violent offender” means a person who has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual or violent offense.

(11) “Sexually violent predator” means a person who:

(a) has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual offense and who suffers from a mental abnormality or a personality disorder that makes the person likely to engage in predatory sexual offenses; or

(b) has been convicted of a sexual offense against a victim 12 years of age or younger and the offender is 18 years of age or older.

(12) “Transient” means an offender who has no residence.

(13) “Violent offense” means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-102, 45-5-103, 45-5-202, 45-5-206 (third or subsequent offense), 45-5-210(1)(b), (1)(c), or (1)(d), 45-5-212, 45-5-213, 45-5-215, 45-5-302 (if the victim is not a minor), 45-5-303 (if the victim is not a minor), 45-5-401, 45-6-103, or 45-9-132; or

(b) any violation of a law of another state, a tribal government, or the federal government reasonably equivalent to a violation listed in subsection (13)(a).”

Section 15. Effective date. [This act] is effective on passage and approval.

Section 16. Applicability. [This act] applies to offenses committed on or after [the effective date of this act].

Approved May 7, 2019

CHAPTER NO. 309

[SB 158]

AN ACT PROVIDING AN EXEMPTION FROM THE REQUIREMENT FOR A MOTORCYCLE ENDORSEMENT FOR AN AUTOCYCLE; DEFINING "AUTOCYCLE"; AND AMENDING SECTIONS 61-1-101, 61-3-317, 61-5-102, 61-5-112, AND 61-8-102, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-1-101, MCA, is amended to read:

"61-1-101. Definitions. As used in this title, unless the context indicates otherwise, the following definitions apply:

(1) (a) "Authorized agent" means a person who has executed a written agreement with the department and is specifically authorized by the department to electronically access and update the department's motor vehicle titling, registration, or driver records, using an approved automated interface, for specific functions or purposes on behalf of a third party.

(b) For purposes of this subsection (1), "person" means an individual, corporation, partnership, limited partnership, limited liability company, association, joint venture, state agency, local government unit, another state government, the United States, a political subdivision of this or another state, or any other legal or commercial entity.

(2) "Authorized agent agreement" means the written agreement executed between an authorized agent and the department that sets the technical and operational program standards, compliance criteria, payment options, and service expectations by which the authorized agent is required to operate in performing specific motor vehicle or driver-related record functions.

(3) "*Autocycle*" means a three-wheeled motorcycle that is equipped with safety belts, roll bars or roll hoops, a steering wheel, and seating that does not require the operator to straddle or sit astride it.

(3)(4) "Bus" means a motor vehicle designed for carrying more than 10 passengers and used for the transportation of persons and any other motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(4)(5) (a) "Business entity" means a corporation, association, partnership, limited liability partnership, limited liability company, or other legal entity recognized under state law.

(b) The term does not include an individual.

(5)(6) (a) "Camper" means a structure designed to be mounted in the cargo area of a truck or attached to an incomplete vehicle for the purpose of providing shelter for persons. The term includes but is not limited to a cab-over, half cab-over, noncab-over, telescopic, and telescopic cab-over.

(b) The term does not include a truck canopy cover or topper.

(6)(7) "CDLIS driver record" means the electronic record of a person's commercial driver's license status and history stored as part of the commercial driver's license system established under 49 U.S.C. 31309.

(7)(8) "Certificate of title" means the paper record issued by the department or by the appropriate agency of another jurisdiction that establishes a verifiable record of ownership between an identified person or persons and the motor vehicle specifically described in the record and that provides notice of a perfected security interest in the motor vehicle.

(8)(9) "Commercial driver's license" means:

(a) a driver's license issued under or granted by the laws of this state that authorizes a person to operate a class of commercial motor vehicle; or

(b) the privilege of a person to drive a commercial motor vehicle, whether or not the person holds a valid commercial driver's license.

~~(9)~~(10) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

(i) has a gross combination weight rating or a gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;

(ii) has a gross vehicle weight rating or a gross vehicle weight of 26,001 pounds or more, whichever is greater;

(iii) is designed to transport at least 16 passengers, including the driver;

(iv) is a school bus; or

(v) is of any size and is used in the transportation of hazardous materials.

(b) The following vehicles are not commercial motor vehicles:

(i) an authorized emergency vehicle:

(A) equipped with audible and visual signals as required under 61-9-401 and 61-9-402; and

(B) operated when responding to or returning from an emergency call or operated in another official capacity;

(ii) a vehicle:

(A) controlled and operated by a farmer, family member of the farmer, or person employed by the farmer;

(B) used to transport farm products, farm machinery, or farm supplies to or from the farm within Montana within 150 miles of the farm or, if there is a reciprocity agreement with a state adjoining Montana, within 150 miles of the farm, including any area within that perimeter that is in the adjoining state; and

(C) not used to transport goods for compensation or for hire; or

(iii) a vehicle operated for military purposes by active duty military personnel, a member of the military reserves, a member of the national guard on active duty, including personnel on full-time national guard duty, personnel in part-time national guard training, and national guard military technicians, or active duty United States coast guard personnel.

(c) For purposes of this subsection ~~(9)~~ (10):

(i) "farmer" means a person who operates a farm or who is directly involved in the cultivation of land or crops or the raising of livestock owned by or under the direct control of that person;

(ii) "gross combination weight rating" means the value specified by the manufacturer as the loaded weight of a combination or articulated vehicle;

(iii) "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle; and

(iv) "school bus" has the meaning provided in 49 CFR 383.5.

~~(10)~~(11) "Commission" means the state transportation commission.

~~(11)~~(12) "Custom-built motorcycle" means a motorcycle that is equipped with:

(a) an engine that was manufactured 20 years prior to the current calendar year and that has been altered from the manufacturer's original design; or

(b) an engine that was manufactured to resemble an engine 20 or more years old and that has been constructed in whole or in part from nonoriginal materials.

~~(12)~~(13) "Custom vehicle" means a motor vehicle other than a motorcycle that:

(a) (i) was manufactured with a model year after 1948 and that is at least 25 years old; or

(ii) was built to resemble a vehicle manufactured after 1948 and at least 25 years before the current calendar year, including a kit vehicle intended to resemble a vehicle manufactured after 1948 and that is at least 25 years old; and

(b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

(13)(14) "Customer identification number" means:

(a) a driver's license or identification card number when the customer is an individual who has been issued a driver's license or identification card by a state driver licensing authority;

(b) a federal employer or tax identification number when the customer is a business entity that has been issued a federal employer or tax identification number;

(c) the identification number assigned by the secretary of state to a business entity authorized to do business in this state under Title 35 if the customer is a business entity that does not have a federal employer or tax identification number other than a social security number; or

(d) if the customer has not been issued one of the numbers described in subsections ~~(13)(a) through (13)(c)~~ (14)(a) through (14)(c), a number assigned to the customer by the department when a transaction is initiated under this title.

(14)(15) (a) "Dealer" means a person that, for commission or profit, engages in whole or in part in the business of buying, selling, exchanging, or accepting on consignment new or used motor vehicles, trailers, semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, off-highway vehicles, or special mobile equipment that is not registered in the name of the person.

(b) The term does not include the following:

(i) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under a judgment or order of any court of competent jurisdiction;

(ii) employees of the persons included in subsection ~~(14)(b)(i)~~ (15)(b)(i) when engaged in the specific performance of their duties as employees; or

(iii) public officers while performing or in the operation of their duties.

(15)(16) "Declared weight" means the total unladen weight of a vehicle plus the weight of the maximum load to be carried on the vehicle as stated by the registrant in the application for registration.

(16)(17) "Department" means the department of justice acting directly or through its duly authorized officers or agents.

(17)(18) "Dolly or converter gear" means a device consisting of one or two axles with a fifth wheel and trailer tongue used to support the forward end of a semitrailer, converting a semitrailer into a trailer.

(18)(19) "Domiciled" means a place where:

(a) an individual establishes residence;

(b) a business entity maintains its principal place of business;

(c) the business entity's registered agent maintains an address; or

(d) a business entity most frequently uses, dispatches, or controls a motor vehicle, trailer, semitrailer, or pole trailer that it owns or leases.

(19)(20) "Downgrade" means the removal of a person's privilege to operate a commercial motor vehicle, as maintained by the department on the individual Montana driving record and the CDLIS driver record for that person.

(20)(21) "Driver" means a person who drives or is in actual physical control of a vehicle.

(21)(22) "Driver's license" means a license or permit to operate a motor vehicle issued under or granted by the laws of this state, including:

(a) any temporary license or learner license;
(b) the privilege of any person to drive a motor vehicle, whether or not the person holds a valid license;

(c) any nonresident's driving privilege;

(d) a motorcycle endorsement; or

(e) a commercial driver's license.

(22)(23) "Electric personal assistive mobility device" means a device that has two nontandem wheels, is self-balancing, and is designed to transport only one person with an electric propulsion system that limits the maximum speed of the device to 12 1/2 miles an hour.

(23)(24) "For hire" means an action performed for remuneration of any kind, whether paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service.

(24)(25) (a) "Golf cart" means a motor vehicle that is designed for use on a golf course to carry a person or persons and golf equipment and that has an average speed of less than 15 miles per hour.

(b) Except as provided in 61-3-201, a golf cart is exempt from titling, registration, and mandatory liability insurance requirements under this title.

(25)(26) "Gross vehicle weight" means the weight of a vehicle without load plus the weight of any load on the vehicle.

(26)(27) "Hazardous material" means:

(a) any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under 49 CFR, part 172; or

(b) any quantity of a material listed as a select agent or toxin in 42 CFR, part 73.

(27)(28) "Highway" or "public highway" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(28)(29) "Highway patrol officer" means a state officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(29)(30) "Implement of husbandry" means a vehicle that is designed for agricultural purposes and exclusively used by the owner of the vehicle in the conduct of the owner's agricultural operations.

(30)(31) "Kit vehicle" is a motor vehicle assembled from a manufactured kit either as:

(a) a complete kit, consisting of a prefabricated body and chassis, to construct a new motor vehicle; or

(b) a kit with a prefabricated body to be mounted to an existing motor vehicle chassis and drivetrain, commonly referred to as a donor vehicle.

(31)(32) "Light vehicle" means a motor vehicle commonly referred to as an automobile, van, sport utility vehicle, or truck having a manufacturer's rated capacity of 1 ton or less.

(32)(33) "Low-speed electric vehicle" means a motor vehicle, on or by which a person may be transported, that:

(a) has four wheels;

(b) has a maximum speed of at least 20 miles an hour and no greater than 40 miles an hour as certified by the manufacturer;

(c) is propelled by its own power, using an electric motor or other device that transforms stored electrical energy into the motion of the vehicle;

(d) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power grid or from renewable electrical energy sources;

(e) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;

(f) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565; and

(g) is equipped as provided in 61-9-432.

(33)(34) "Low-speed restricted driver's license" means a license limited to the operation of a low-speed electric vehicle or a golf cart issued under or granted by the laws of this state, including:

(a) a temporary license or learner license;

(b) the privilege of a person to drive a low-speed electric vehicle or golf cart under the authority of 61-5-122, whether or not the person holds a valid driver's license; and

(c) a nonresident's similarly restricted driving privilege.

(34)(35) "Manufactured home" has the meaning provided in 15-24-201.

(35)(36) "Manufacturer" includes any person engaged in the manufacture of motor vehicles, trailers, semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, or off-highway vehicles as a regular business.

(36)(37) "Manufacturer's certificate of origin" means the original paper record produced and issued by the manufacturer of a vehicle or, if in a medium authorized by the department, an electronic record created and transmitted by the manufacturer of a vehicle to the manufacturer's agent or a licensed dealer. The record must establish the origin of the vehicle specifically described in the record and, upon assignment, transfers of ownership of the vehicle to the person or persons named in the certificate.

(37)(38) (a) "Medium-speed electric vehicle" is a motor vehicle, on or by which a person may be transported, that:

(i) has a maximum speed of 45 miles an hour as certified by the manufacturer;

(ii) is propelled by its own power, using an electric motor or other device that transforms stored electrical energy into the motion of the vehicle;

(iii) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power grid or from renewable electrical energy sources;

(iv) is fully enclosed and includes at least one door for entry;

(v) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater;

(vi) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565;

(vii) bears a sticker, affixed by the manufacturer or dealer, on the left side of the rear window that indicates the vehicle's maximum speed rating; and

(viii) as certified by the manufacturer, is equipped as provided in 61-9-432.

(b) A medium-speed electric vehicle must be treated as a light vehicle for purposes of titling and registration under Title 61, chapter 3.

(c) A medium-speed electric vehicle may not have a gross vehicle weight in excess of 5,000 pounds.

(38)(39) "Mobile home" or "housetrailer" has the meaning provided in 15-24-201.

(39)(40) "Montana resident" means:

(a) an individual who resides in Montana as determined under 1-1-215; or

(b) for the purposes of chapter 3, a business entity that maintains a principal place of business or a registered agent in this state.

(40)(41) (a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.

(b) The term does not include a vessel that has a valid marine document issued by the U.S. coast guard or any successor federal agency.

~~(41)~~(42) (a) “Motor carrier” means a person or corporation or its lessees, trustees, or receivers appointed by a court that are operating motor vehicles on a public highway in this state for the transportation of property for hire on a commercial basis.

(b) The term does not include motor carriers regulated under Title 69, chapter 12.

~~(42)~~(43) (a) “Motorcycle” means a motor vehicle that has a seat or saddle for the use of the operator and that is designated to travel on not more than three wheels in contact with the ground. A motorcycle may carry one or more attachments and a seat for the conveyance of a passenger.

(b) A motorcycle designed for use on highways is a motor vehicle unless otherwise prescribed.

(c) A motorcycle designed for off-road recreational use is an off-highway vehicle unless it has been modified to meet the equipment standards specified in chapter 9 and has been registered for highway use.

~~(d)~~ *The term includes an autocycle.*

~~(d)~~(e) The term does not include a tractor, a bicycle or a moped as defined in 61-8-102, a motorized nonstandard vehicle, or a two- or three-wheeled all-terrain vehicle that is used exclusively on private property.

~~(43)~~(44) (a) “Motor-driven cycle” means a motorcycle, including a motor scooter, with a motor that produces 5 horsepower or less.

(b) The term does not include a bicycle or a moped, as defined in 61-8-102, or a motorized nonstandard vehicle.

~~(44)~~(45) “Motor home” means a motor vehicle:

(a) designed to provide temporary living quarters, built as an integral part of or permanently attached to a self-propelled motor vehicle chassis or van;

(b) containing permanently installed independent life support systems that meet the ANSI/A119.2 standard; and

(c) providing at least four of the following types of facilities:

(i) cooking, refrigeration, or icebox;

(ii) self-contained toilet;

(iii) heating or air conditioning, or both;

(iv) potable water supply, including a faucet and sink; or

(v) separate 110-volt or 125-volt electrical power supply or a liquefied petroleum gas supply, or both.

~~(45)~~(46) (a) “Motorized nonstandard vehicle” means a vehicle, on or by which a person may be transported, that:

(i) is propelled by its own power, using an internal combustion engine or an electric motor;

(ii) has a wheelbase of less than 40 inches and a wheel diameter of less than 10 inches; and

(iii) does not display a manufacturer’s certification in accordance with 49 CFR, part 567, or have a 17-character vehicle identification number assigned by the manufacturer in accordance with 49 CFR, part 565.

(b) The term includes but is not limited to a motorized skateboard and a vehicle commonly known as a “pocket rocket”.

(c) The term does not include a moped as defined in 61-8-102, an electric personal assistive mobility device, or a motorized wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person.

~~(46)~~(47) (a) "Motor vehicle" means:

(i) a vehicle propelled by its own power and designed or used to transport persons or property on the highways of the state;

(ii) a quadricycle if it is equipped for use on the highways as prescribed in chapter 9; or

(iii) a golf cart only if it is equipped for use on the highways as prescribed in chapter 9 and is operated pursuant to 61-8-391 or by a person with a low-speed restricted driver's license.

(b) The term does not include a bicycle or a moped as defined in 61-8-102, an electric personal assistive mobility device, a motorized nonstandard vehicle, or a motorized wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.

~~(47)~~(48) "New motor vehicle" means a motor vehicle, regardless of the mileage of the vehicle, the legal or equitable title to which has never been transferred by a manufacturer, distributor, or dealer to another person as the result of a retail sale.

~~(48)~~(49) "Nonresident" means a person who is not a Montana resident.

~~(49)~~(50) (a) "Not used for general transportation purposes" means the operation of a motor vehicle registered as a collector's item, a custom vehicle, a street rod, or a custom-built motorcycle to or from a car or motorcycle club activity or event or an exhibit, show, cruise night, or parade, or for other occasional transportation activity.

(b) The term does not include operation of a motor vehicle for routine or ordinary household maintenance, employment, education, or other similar purposes.

~~(50)~~(51) (a) "Off-highway vehicle" means a self-propelled vehicle designed for recreation or cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind.

(b) The term does not include:

(i) vehicles designed primarily for travel on, over, or in the water;

(ii) snowmobiles; or

(iii) motor vehicles designed to transport persons or property on the highways unless the vehicle is used for off-road recreation on public lands.

~~(51)~~(52) "Operator" means a person who is in actual physical control of a motor vehicle.

~~(52)~~(53) "Owner" means a person who holds the legal title to a vehicle. If a vehicle is the subject of an agreement for the conditional sale of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or in the event a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or in the event a mortgagor of a vehicle is entitled to possession, then the owner is the person in whom is vested the right of possession or control.

~~(53)~~(54) "Person" means an individual, corporation, partnership, association, firm, or other legal entity.

~~(54)~~(55) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the vessel.

(55)(56) "Pole trailer" means a vehicle without power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable generally of sustaining themselves as beams between the supporting connections.

(56)(57) "Police officer" means an officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(57)(58) (a) "Quadricycle" means a four-wheeled motor vehicle, designed for on-road or off-road use, having a seat or saddle on which the operator sits.

(b) The term does not include golf carts.

(58)(59) "Railroad" means a carrier of persons or property on cars, other than streetcars, operated on stationary rails.

(59)(60) (a) "Railroad train" or "train" means a steam engine or electric or other motor, with or without cars coupled to the engine, that is operated on rails.

(b) The term does not include streetcars.

(60)(61) "Recreational vehicle" includes a motor home, travel trailer, or camper.

(61)(62) "Registration" or "register" means the act or process of creating an electronic record, maintained by the department, of the assignment of a license plate or a set of license plates to and the issuance of a registration decal for a specific vehicle, the ownership of which has been established or is presumed in department records.

(62)(63) "Registration decal" means an adhesive sticker produced by the department and issued by the department, its authorized agent, or a county treasurer to the owner of a motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat, personal watercraft, or snowmobile as proof of payment of all fees imposed for the registration period indicated on the sticker as recorded by the department under 61-3-101.

(63)(64) "Registration receipt" means a paper record that is produced and issued or, if authorized by the department, an electronic record that is transmitted by the department, its authorized agent, or a county treasurer to the owner of a vehicle that identifies a vehicle, based on information maintained in the electronic record of title for the vehicle, and that provides evidence of the payment of all fees required to be paid for the registration of the vehicle for the registration period indicated in the receipt.

(64)(65) "Retail sale" means the sale of a motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or special mobile equipment by a dealer to a person for purposes other than resale.

(65)(66) "Revocation" means the termination by action of the department of a person's driver's license, privilege to drive a motor vehicle on the public highways, and privilege to apply for and be issued a driver's license for a period of time designated by law, during which the license or privilege may not be renewed, restored, or exercised. An application for a new license may be presented and acted on by the department after the expiration of the period of the revocation.

(66)(67) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event that a highway includes two or more separate roadways, the term refers to any roadway separately but not to all roadways collectively.

(67)(68) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion.

(b) The term does not include a canoe or kayak propelled by wind.

(68)(69) "School zone" means an area near a school beginning at the school's front door, encompassing the campus and school property, and including the streets directly adjacent to the school property and for as many blocks surrounding the school as determined by the local authority establishing a special speed limit under 61-8-310(1)(d).

(69)(70) "Sell" means to transfer ownership from one person to another person or from a dealer to another person for consideration.

(70)(71) "Semitrailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(71)(72) "Snowmobile" means a self-propelled vehicle of an overall width of 48 inches or less, excluding accessories, that is designed primarily for travel on snow or ice, that may be steered by skis or runners, and that is not otherwise registered or licensed under the laws of the state of Montana.

(72)(73) "Special mobile equipment" means a vehicle not designed for the transportation of persons or property on the highways but incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus, and well-boring apparatus. The fact that equipment is permanently attached to a vehicle does not make the vehicle special mobile equipment. The enumeration in this subsection is partial and does not exclude other vehicles that are within the general terms of this subsection.

(73)(74) (a) "Specially constructed vehicle" means a motor vehicle, including a motorcycle, that:

(i) was not originally constructed under a distinctive make, model, or type by a generally recognized manufacturer of motor vehicles;

(ii) has been structurally modified so that it does not have the same appearance as similar vehicles from a generally recognized manufacturer of motor vehicles;

(iii) has been constructed or assembled entirely from custom-built parts and materials not obtained from other vehicles;

(iv) has been constructed or assembled by using major component parts from one or more manufactured vehicles and that cannot be identified as a specific make or model; or

(v) has been constructed by the use of a kit that cannot be visually identified as a specific make or model.

(b) The term does not include a motor vehicle that has been repaired or restored to its original design by replacing parts.

(74)(75) (a) "Sport utility vehicle" means a light vehicle designed to transport 10 or fewer persons that is constructed on a truck chassis or that has special features for occasional off-road use.

(b) The term does not include trucks having a manufacturer's rated capacity of 1 ton or less.

(75)(76) (a) "Stop", when required, means complete cessation from movement.

(b) "Stop", "stopping", or "standing", when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, highway patrol officer, or traffic control sign or signal.

(76)(77) "Storage lot" means property owned, leased, or rented by a dealer that is not contiguous to the dealer's established place of business where a motor vehicle from the dealer's inventory may be placed when space at the dealer's established place of business is not available.

(77)(78) "Street" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel.

(78)(79) "Street rod" means a motor vehicle, other than a motorcycle, that:

(a) was manufactured prior to 1949 or was built to resemble a vehicle manufactured before 1949, including a kit vehicle intended to resemble a vehicle manufactured before 1949; and

(b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.

(79)(80) "Suspension" means the temporary withdrawal by action of the department of a person's driver's license, privilege to drive a motor vehicle on the public highways, and privilege to apply for or be issued a driver's license for a period of time designated by law.

(80)(81) "Temporary registration permit" means a paper record:

(a) issued by the department, an authorized agent, a county treasurer, or a person, using a department-approved electronic interface after an electronic record has been transmitted to the department, that contains:

(i) required vehicle and owner information; and

(ii) the purpose for which the record was generated; and

(b) that, when placed in a durable license-plate style plastic pouch approved by the department and displayed as prescribed in 61-3-224, authorizes a person to operate the described motor vehicle, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for:

(i) 40 days from the date the record is issued or until the vehicle is registered under Title 23 or this title, whichever first occurs; or

(ii) 90 days from the date the record is issued for a permit issued pursuant to 61-3-303(3)(b).

(81)(82) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highways for purposes of travel.

(82)(83) (a) "Trailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests on the towing vehicle.

(b) The term does not include a mobile home or a manufactured home, as defined in 15-1-101.

(83)(84) "Transaction summary receipt" means an electronic record produced and issued by the department, its authorized agent, or a county treasurer for which a paper receipt is issued. The record may be created by the department and transmitted to the owner of a vehicle, a secured party, or a lienholder. The record must contain a unique transaction record number and summarize and verify the electronic filing of the transaction described in the receipt on the electronic record of title maintained under 61-3-101.

(84)(85) "Travel trailer" means a vehicle:

(a) that is 40 feet or less in length;

(b) that is of a size or weight that does not require special permits when towed by a motor vehicle;

(c) with gross trailer area of less than 320 square feet; and

(d) that is designed to provide temporary facilities for recreational, travel, or camping use and not used as a principal residence.

(85)(86) "Truck" or "motortruck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(86)(87) “Truck tractor” means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

(87)(88) “Under the influence” has the meaning provided in 61-8-401.

(88)(89) “Used motor vehicle” includes any motor vehicle that has been sold, bargained, exchanged, or given away or had its title transferred from the person who first took title to it from the manufacturer, importer, dealer, wholesaler, or agent of the manufacturer or importer and that has been used so as to have become what is commonly known as “secondhand” within the ordinary meaning of that term.

(89)(90) “Van” means a motor vehicle designed for the transportation of at least six persons and not more than nine persons and intended for but not limited to family or personal transportation without compensation.

(90)(91) (a) “Vehicle” means a device in, on, or by which any person or property may be transported or drawn on a public highway, except devices moved by animal power or used exclusively on stationary rails or tracks.

(b) The term does not include a manually or mechanically propelled wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person.

(91)(92) “Vehicle identification number” means the number, letters, or combination of numbers and letters assigned by the manufacturer, by the department, or in accordance with the laws of another state or country for the purpose of identifying the motor vehicle or a component part of the motor vehicle.

(92)(93) “Vessel” means every description of watercraft, unless otherwise defined by the department, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(93)(94) “Wholesaler” means a person that for a commission or with intent to make a profit or gain of money or other thing of value sells, exchanges, or attempts to negotiate a sale or exchange of an interest in a used motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or special mobile equipment only to dealers and auto auctions licensed under chapter 4, part 1.”

Section 2. Section 61-3-317, MCA, is amended to read:

“61-3-317. New registration required for transferred motor vehicle – grace period – penalty – display of proof of purchase. (1) The new owner of a transferred motor vehicle, trailer, semitrailer, or pole trailer has a grace period of 40 calendar days from the date of purchase to make application for a certificate of title and pay the registration fees, fees in lieu of tax and other fees required by this chapter, and local option taxes, if applicable. However, the motor vehicle, trailer, semitrailer, or pole trailer may not be operated upon the streets and highways of this state during this period unless a temporary registration permit has been issued for and is properly displayed on the motor vehicle, trailer, semitrailer, or pole trailer as permitted by 61-3-224.

(2) If the motor vehicle, trailer, semitrailer, or pole trailer was not purchased from a licensed motor vehicle dealer as provided in this chapter, it is not a violation of this chapter or any other law for the purchaser to operate the motor vehicle, trailer, semitrailer, or pole trailer upon the streets and highways of this state without a current registration receipt or registration decal during the period allowed under 61-1-101(80)(b)(81)(b) if at all times during that period a temporary registration permit issued under 61-3-224 is properly displayed.”

Section 3. Section 61-5-102, MCA, is amended to read:

“61-5-102. Drivers to be licensed – penalty. (1) (a) Except as provided in 61-5-104, a person may not drive a motor vehicle upon a highway in this state unless the person has a valid Montana driver’s license. A person may not receive a Montana driver’s license until the person surrenders to the department all valid driver’s licenses issued by any other jurisdiction. A person may not have in the person’s possession or under the person’s control more than one valid Montana driver’s license at any time.

(b) Except as provided in subsection (1)(c), the penalty for a violation of this section is a fine of not more than \$500.

(c) A person who is eligible to hold a driver’s license and has obtained a valid driver’s license but has not renewed the license as provided in 61-5-111(3)(c) is not subject to the penalty in subsection (1)(b).

(2) (a) (i) Except as provided in ~~subsection (2)(a)(ii)~~ *subsections (2)(a)(ii) and (2)(a)(iii)*, a license is not valid for the operation of a motorcycle unless the holder of the license has completed the requirements of 61-5-110 and the license has been clearly marked with the words “motorcycle endorsement”.

(ii) A motorcycle endorsement is not required for the operation of a low-speed electric vehicle or a motorcycle that is propelled by an electric motor or other device that transforms stored electrical energy into the motion of the vehicle, has a fully enclosed cab, is equipped with three wheels in contact with the ground, and is equipped with a seat and seatbelts.

(iii) *A motorcycle endorsement is not required for the operation of an autocycle.*

(b) A license is not valid for the operation of a commercial motor vehicle unless the holder of the license has completed the requirements of 61-5-110, the license has been clearly marked with the words “commercial driver’s license”, and the license bears the proper endorsement for:

(i) the specific vehicle type or types being operated; or

(ii) the passengers or type or types of cargo being transported.

(3) A low-speed restricted driver’s license is not valid for the operation of a motor vehicle other than a low-speed electric vehicle or a golf cart.

(4) When a city or town requires a licensed driver to obtain a local driving license or permit, a license or permit may not be issued unless the applicant presents a state driver’s license valid under the provisions of this chapter.”

Section 4. Section 61-5-112, MCA, is amended to read:

“61-5-112. Types and classes of commercial driver’s licenses – classification – rulemaking – reciprocity agreements. (1) The department shall adopt rules that it considers necessary for the safety and welfare of the traveling public governing the classification of commercial driver’s licenses and related endorsements and the examination of commercial driver’s license applicants and renewal applicants. The rules must:

(a) subject to the exceptions provided in this section, comport with the licensing standards and requirements of 49 CFR, part 383, the medical qualifications of 49 CFR, part 391, and the security threat assessment provisions of 49 CFR, part 1572;

(b) allow for the issuance of a type 2 (intrastate only) commercial driver’s license in accordance with medical qualification and visual acuity standards prescribed by the department;

(c) allow for the issuance of a type 2 commercial driver’s license to a person who is 18 years of age or older;

(d) allow for issuance of a seasonal commercial driver’s license based on standards established by the department for the waiver of the knowledge

and road or skills test for a qualified person employed in farm-related service industries who has a good driving record and sufficient prior driving experience;

(e) prescribe the operational and seasonal restrictions for a seasonal commercial driver's license;

(f) prescribe the requirements for the medical statement that must be submitted in order for a person to be qualified for a type 2 commercial driver's license;

(g) prescribe the minimum standards for certification of a third-party commercial driver testing program and any test waiver under 61-5-118; and

(h) allow for the issuance of a commercial learner's permit.

(2) The department is authorized to enter into reciprocal agreements with adjacent states that would allow certain drivers of vehicles transporting farm products, farm machinery, or farm supplies within 150 miles of a farm to operate without a commercial driver's license because the vehicles are not considered commercial motor vehicles as provided in 61-1-101(9)(b)(ii)(10)(b)(ii)."

Section 5. Section 61-8-102, MCA, is amended to read:

"61-8-102. Uniformity of interpretation -- definitions.

(1) Interpretation of this chapter in this state must be as consistent as possible with the interpretation of similar laws in other states.

(2) As used in this chapter, unless the context requires otherwise, the following definitions apply:

(a) "Authorized emergency vehicle" means a vehicle of a governmental fire agency organized under Title 7, chapter 33, an ambulance, or an emergency vehicle designated or authorized by the department.

(b) "Bicycle" means a vehicle propelled solely by human power on which any person may ride, irrespective of the number of wheels, except scooters, wheelchairs, and similar devices. The term includes an electrically assisted bicycle.

(c) "Bicycle trailer" means a device with one or more wheels that is designed to be towed by a bicycle.

(d) "Business district" means the territory contiguous to and including a highway when within any 600 feet along a highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, office buildings, railroad stations, and public buildings that occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

(e) "Controlled-access highway" means a highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the highway, street, or roadway except at the points and in the manner as determined by the public authority having jurisdiction over the highway, street, or roadway.

(f) "Crosswalk" means:

(i) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or

(ii) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrians crossing by lines or other markings on the surface.

(g) "Electrically assisted bicycle" means a vehicle on which a person may ride that has two tandem wheels and an electric motor capable of propelling the vehicle and a rider who weighs 170 pounds no faster than 20 miles an hour on a paved, level surface.

(h) "Flag person" means a person who directs, controls, or alters the normal flow of vehicular traffic on a street or highway as a result of a vehicular traffic hazard then present on that street or highway. This person, except a

uniformed traffic enforcement officer exercising the officer's duty as a result of a planned vehicular traffic hazard, must be equipped as required by the rules of the department of transportation.

(i) "Highway" has the meaning provided in 61-1-101, but includes ways that have been or are later dedicated to public use.

(j) "Ignition interlock device" means ignition equipment that:

(i) analyzes the breath to determine blood alcohol concentration;

(ii) is approved by the department pursuant to 61-8-441; and

(iii) is designed to prevent a motor vehicle from being operated by a person who has consumed a specific amount of an alcoholic beverage.

(k) (i) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines or if there are no curb lines then the lateral boundary lines of the roadways of two highways that join one another at or approximately at right angles or the area within which vehicles traveling on different highways joining at any other angle may come in conflict.

(ii) When a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of the divided highway by an intersecting highway must be regarded as a separate intersection. If the intersecting highways also include two roadways 30 feet or more apart, then every crossing of two roadways of the highways must be regarded as a separate intersection.

(l) "Laned roadway" means a roadway that is divided into two or more clearly marked lanes for vehicular traffic.

(m) "Local authorities" means every county, municipal, and other local board or body having authority to enact laws relating to traffic under the constitution and laws of this state.

(n) "Moped" means a vehicle equipped with two or three wheels, foot pedals to permit muscular propulsion, and an independent power source providing a maximum of 2 brake horsepower. The power source may not be capable of propelling the device, unassisted, at a speed exceeding 30 miles an hour on a level surface. The device must be equipped with a power drive system that functions directly or automatically only and does not require clutching or shifting by the operator after the drive system is engaged.

(o) "Noncommercial motor vehicle" or "noncommercial vehicle" means any motor vehicle or combination of motor vehicles that is not included in the definition of commercial motor vehicle in 61-1-101 and includes but is not limited to the vehicles listed in 61-1-101~~(9)(b)~~*(10)(b)*.

(p) "Official traffic control devices" means all signs, signals, markings, and devices not inconsistent with this title that are placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

(q) "Pedestrian" means any person on foot or any person in a manually or mechanically propelled wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person.

(r) "Police vehicle" means a vehicle used in the service of any law enforcement agency.

(s) "Private road" or "driveway" means a way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(t) "Residence district" means the territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of 300 feet or more is primarily improved with residences or residences and buildings in use for business.

(u) "Right-of-way" means the privilege of the immediate use of the roadway.

(v) “Roadway” means the portion of a highway that is improved, designed, or ordinarily used for vehicular travel, including the paved shoulder.

(w) “School bus” has the meaning provided in 20-10-101.

(x) “Sidewalk” means the portion of a street that is between the curb lines or the lateral lines of a roadway and the adjacent property lines and that is intended for use by pedestrians.

(y) “Traffic control signal” means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.

(z) “Urban district” means the territory contiguous to and including any street that is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than 100 feet for a distance of one-fourth mile or more.”

Approved May 7, 2019

CHAPTER NO. 310

[SB 171]

AN ACT GENERALLY REVISING LAWS RELATED TO FIREFIGHTERS AND TOBACCO; REQUIRING THAT PAID FIREFIGHTERS HIRED ON OR AFTER JULY 1, 2019, BE TOBACCO-FREE; PROVIDING TOBACCO CESSATION COURSES TO PAID FIREFIGHTERS WHO CURRENTLY USE TOBACCO PRODUCTS; PROHIBITING CERTAIN FIREFIGHTERS FROM DISPLAYING TOBACCO PRODUCTS OR USING TOBACCO PRODUCTS WHILE ON DUTY; PROHIBITING PROVISIONS ALLOWING TOBACCO USE IN COLLECTIVE BARGAINING AGREEMENTS; AMENDING SECTION 7-33-4107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 4], the following definitions apply:

(1) “Paid firefighter” means a firefighter qualified under 7-33-4107 who receives full or partial pay.

(2) “Volunteer firefighter” has the meaning provided in 19-17-102.

Section 2. Qualifications of paid firefighters – tobacco use. (1) (a) A paid firefighter hired on or after July 1, 2019, must be tobacco-free.

(b) The requirements of subsection (1)(a) must be verified through a physical exam as required in 7-33-4107.

(2) (a) A paid firefighter hired prior to July 1, 2019, who uses tobacco shall take a tobacco cessation course once every 4 years. The tobacco cessation course must be provided through programs for tobacco disease prevention as described in 17-6-602.

(b) A paid firefighter hired prior to July 1, 2019, shall provide proof of participation in a tobacco cessation course to the firefighter’s department.

Section 3. Tobacco references and use prohibited. (1) A municipal or rural fire department, district, or service area may not display, advertise, or depict tobacco products or the use of tobacco products on state, county, or municipal property.

(2) A paid firefighter may not wear any form of clothing depicting tobacco products or tobacco use while engaged in firefighting duties.

(3) A paid or volunteer firefighter may not use tobacco products while engaged in firefighting work, on firefighting equipment, while attending any firefighting training, or on any worksite while engaging in firefighting duties.

Section 4. Tobacco use provisions prohibited in collective bargaining. (1) Except as provided in subsection (2), collective bargaining agreements between an employer and paid firefighters may not include provisions allowing tobacco use.

(2) Collective bargaining agreements enacted before [the effective date of this act] are exempt from the provisions of subsection (1).

Section 5. Section 7-33-4107, MCA, is amended to read:

“7-33-4107. Qualifications of firefighters. The state of Montana determines that qualifications for the firefighting profession must recognize the rigorous physical demands placed on firefighters and the expectation of many years of emergency service. To qualify as a firefighter, an applicant:

(1) must be a citizen of the United States;

(2) must be at least 18 years of age;

(3) must be a high school graduate or have been issued a high school equivalency diploma by the superintendent of public instruction or by an appropriate issuing agency of another state or of the federal government;

(4) must possess or be eligible for a valid Montana driver's license;

(5) shall pass a physical examination by a qualified physician, physician assistant, or advanced practice registered nurse, who is not the applicant's personal physician, physician assistant, or advanced practice registered nurse, appointed by the employing authority to determine if the applicant is free from any mental or physical condition that might adversely affect the applicant's performance of the duties of a firefighter, *including requirements described in [section 2]*;

(6) must be fingerprinted and a search must be made of the local, state, and national fingerprint files to disclose any criminal record; and

(7) may not have been convicted of a crime for which the applicant could have been imprisoned in a federal or state penitentiary.”

Section 6. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 7. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 7, chapter 33, and the provisions of Title 7, chapter 33, apply to [sections 1 through 4].

Section 8. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2019

CHAPTER NO. 311

[SB 195]

AN ACT GENERALLY REVISING LAWS RELATED TO ENERGY PERFORMANCE CONTRACTING; REVISING THE DEPARTMENT OF ENVIRONMENTAL QUALITY'S RELATED DUTIES AND RULEMAKING; AMENDING SECTIONS 90-4-1102, 90-4-1110, 90-4-1112, 90-4-1113, AND 90-4-1114, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 90-4-1102, MCA, is amended to read:

“90-4-1102. Definitions. As used in this part, the following definitions apply:

(1) “Cost-effective” or “cost-effectiveness” means that the sum of guaranteed cost savings and, ~~if and to the extent allowed by rules adopted pursuant to 90-4-1110(3)(d),~~ *if and to the extent allowed by rules adopted pursuant to 90-4-1110(3)(d),* unguaranteed energy cost savings attributable to utility unit price escalation ~~are is~~ equal to or ~~exceed any~~ *exceed any* greater than:

(a) *the energy performance contract financing repayment obligation, if any, each year of a finance term;*

(b) *the total project cost of the cost-saving measures implemented divided by 20; or*

(c) *the total project cost of the cost-saving measures implemented divided by the cost-weighted average useful life of the cost-saving measures.*

(2) “Cost-saving measure” means a ~~cost-effective~~ facility improvement, repair, or alteration or equipment, fixtures, or furnishings added to or used in a facility and designed to reduce energy or water consumption or operation and maintenance costs. The term also includes vehicle acquisitions, changes to utility rate or tariff schedules, or fuel source changes that result in cost savings.

(3) “Department” means the department of environmental quality provided for in 2-15-3501.

(4) “Energy performance contract” means a *cost-effective* contract between a governmental entity and a qualified energy service provider for ~~evaluation, recommendation, and implementation of one or more cost-saving measures; evaluation of cost-effectiveness, and guaranteed cost savings and guaranteed cost savings.~~

(5) “Finance term” means the length of time for repayment of funds borrowed for an energy performance contract.

(6) “Governmental entity” means:

(a) a department, board, commission, institution, or branch of state government;

(b) a county, consolidated city-county government, city, town, or school district;

(c) a special district, as defined in 2-2-102;

(d) the university system or a unit of the university system; or

(e) a community college district.

(7) “Guarantee period” means the period of time from the effective date of the contract until guaranteed cost savings are achieved in accordance with 90-4-1114(5).

(8) “Guaranteed cost savings” means a guaranteed annual measurable monetary reduction in utility and operating and maintenance costs for each year of a guarantee period resulting from cost-saving measures. Guaranteed cost savings for utility cost savings must be calculated using mutually agreed on baseline utility rates in use at the time of an investment-grade energy audit. Guaranteed cost savings for operation and maintenance cost savings must be calculated using mutually agreed on baseline operation and maintenance costs at the time of an investment-grade energy audit.

(9) “Investment-grade energy audit” means a study of energy or water usage of a public building performed by a qualified energy service provider utilizing a professional engineer licensed in the state of Montana. It includes detailed descriptions of the improvements recommended for the project, the estimated costs of the improvements, and the operation and maintenance cost savings and utility cost savings projected to result from the recommended

improvements. The study must contain all information required pursuant to 90-4-1113(2).

(10) "Measurement and verification" means the methodology, measurements, inspections, and mathematical calculations to determine utility consumption before and after an energy performance contract is implemented. The measurement and verification report may be for an individual cost-saving measure or an entire project.

(11) "Operation and maintenance cost savings" means a measurable decrease in operation and maintenance costs as a direct result of cost-saving measures calculated using baseline operation and maintenance costs. The term does not include the shifting of personnel costs or similar short-term cost savings that cannot be definitively measured.

(12) "Person" means an individual, corporation, partnership, firm, association, cooperative, limited liability company, limited liability partnership, or any other similar entity.

(13) "Qualified energy service provider" means a person included on the department's list of qualified energy service providers.

(14) *"Total project cost" means the total cost of the project, including costs of the investment-grade energy audit, energy performance contract, measurement and verification, and financing.*

~~(14)~~(15) "Utility cost savings" means expenses for utilities that are eliminated or avoided on a long-term basis as a result of equipment installed or modified or services performed by a qualified energy service provider. Utility cost savings include expenses for natural gas, propane or similar fuels, electricity, water, wastewater, and waste disposal."

Section 2. Section 90-4-1110, MCA, is amended to read:

"90-4-1110. Duties and authority of department -- rulemaking.

(1) The department shall establish an energy performance contract program for governmental entities. The department shall:

- (a) solicit, evaluate, and maintain a list of qualified energy service providers;
- (b) ~~pursuant to rules adopted by the department, develop a process to~~ disqualify and remove from the list energy service providers who do not comply with qualifications established;
- (c) enter into agreements with qualified energy service providers ~~and require qualified energy service providers to contract and to provide services in~~ accordance with this part;
- (d) ~~establish guidelines for awarding energy performance contracts;~~
- (e) ~~develop a standardized energy performance contract process and documents;~~
- (f) ~~assist governmental entities interested in pursuing energy performance contracts by providing technical assistance and educational programs and by maintaining a website;~~
- (g) establish a process for measuring and verifying guaranteed cost savings and cost-effectiveness; and
- ~~(h)~~(d) establish reporting requirements for qualified energy service providers;:-

(2) The department may adopt rules for:

- (a) the review of investment-grade energy audits; and
- (b) implementation of this part.
- (3) The department may adopt rules establishing criteria for:
 - (a) the amount of project costs covered by guaranteed cost savings;
 - (b) guaranteed cost savings;
 - (c) measurement of energy cost savings and verification; and

~~(d) use in determining cost-saving measure cost-effectiveness of an unguaranteed utility unit price escalation rate determined in the rules;~~

~~(e) develop a model energy performance contract process and documents; and~~

~~(f) assist governmental entities interested in pursuing energy performance contracts by providing technical assistance and educational programs and by maintaining a website.~~

(2) The department may develop recommended best practices for:

(a) evaluating energy performance proposals and awarding energy performance contracts;

(b) measuring and verifying guaranteed cost savings and cost-effectiveness;

(c) identifying a variety of options to determine the amount of project costs to be covered by guaranteed cost savings;

(d) calculating guaranteed cost savings;

(e) measuring energy cost savings and verification;

(f) determining the cost-effectiveness of the energy performance contract when using an unguaranteed utility unit price escalation rate; and

(g) determining an unguaranteed utility unit price escalation rate.

(3) The department may adopt rules for the implementation of this part."

Section 3. Section 90-4-1112, MCA, is amended to read:

"90-4-1112. Selection of qualified energy service providers.

(1) Before entering into selecting an energy performance contract service provider, a governmental entity shall solicit a request for proposals from a minimum of three qualified energy service providers. The governmental entity may award the performance contract to select the qualified energy service provider determined by the governmental entity to best meet the needs of the governmental entity. The qualified energy service provider selected is not required to have submitted the proposal with the lowest cost.

(2) In selecting a qualified energy service provider, a governmental entity shall consider:

(a) experience with:

(i) design, engineering, and installation of cost-saving measures;

(ii) overall project management;

(iii) projects of similar size and scope;

(iv) postinstallation measurement and verification of guaranteed cost savings;

(v) in-state projects and Montana-based subcontractors;

(vi) commissioning of projects;

(vii) training of building operators; and

(viii) conversions to a different fuel source; and

(b) quality of technical approach."

Section 4. Section 90-4-1113, MCA, is amended to read:

"90-4-1113. Investment-grade energy audits. (1) ~~An energy performance contractor~~ The qualified energy service provider selected by a governmental entity in accordance with 90-4-1112 shall prepare an investment-grade energy audit. The audit must be incorporated into an energy performance contract.

(2) An investment-grade energy audit must include estimates of all costs and guaranteed cost savings for the proposed energy performance contract including:

(a) design;

(b) engineering;

(c) equipment;

(d) materials;

(e) installation;

- (f) maintenance;
- (g) repairs;
- (h) monitoring and verification;
- (i) commissioning;
- (j) training; and
- (k) debt service.

(3) (a) A qualified energy service provider and the governmental entity shall agree on the cost of an investment-grade energy audit before it is conducted.

(b) If an investment-grade energy audit is completed and the governmental entity does not execute an energy performance contract, the governmental entity shall pay the full cost of the investment-grade energy audit.

(c) If the governmental entity executes the energy performance contract, the cost of the investment-grade energy audit may be included in the costs of an energy performance contract or, at the discretion of the governmental entity, be paid for by the governmental entity."

Section 5. Section 90-4-1114, MCA, is amended to read:

"90-4-1114. Energy performance contracts. (1) A governmental entity may pay for an energy performance contract with:

(a) funds designated for operating costs, capital expenditures, utility costs, or lease payments;

(b) installment payment contracts or lease purchase agreements;

(c) bonds issued in accordance with other bonding provisions as provided by law; or

(d) other financing through a third party, including tax-exempt financing.

(2) Utility incentives, grants, operating costs, capital budgets, or other permissible sources may be used to reduce the amount of financing.

(3) (a) An energy performance contract may extend beyond the fiscal year for which the contract is effective.

(b) An energy performance contract may not exceed 20 years, the cost-weighted average useful life of the cost-saving measure, or the term of financing, whichever is shortest.

(4) During the guarantee period, a qualified energy service provider shall:

(a) measure and verify reductions in energy consumption and costs attributable to cost-saving measures implemented pursuant to an energy performance contract; and

(b) not less than annually, prepare and provide a measurement and verification report to the governmental entity and to the department documenting the performance of cost-saving measures.

(5) (a) Costs for measurement and verification must be included in an energy performance contract and paid by the governmental entity during an initial monitoring period that is not less than 3 years.

(b) The energy performance contract must provide that, if guaranteed cost savings are not achieved during any year in the initial monitoring period, the qualified energy service provider shall pay the costs for measurement and verification reports until guaranteed cost savings are achieved for all years in a term of consecutive years equal to the initial monitoring period.

(6) (a) Except as provided in subsection (6)(b), the qualified energy service provider shall pay the governmental entity the amount of any verified annual guaranteed cost savings shortfall each year until guaranteed cost savings are achieved for all years in an initial monitoring period established in accordance with subsection (5). The amount of cost savings achieved during a year must be determined using the mutually agreed on baseline rates referenced in guaranteed cost savings and any unguaranteed energy cost savings attributable

to utility unit price escalation rates ~~allowed pursuant to rules adopted by the department pursuant to 90-4-1110(3)(d).~~

(b) In the case of a shortfall, the governmental entity and qualified energy service provider may negotiate the terms of measurement and verification reports and the shortfall payment for the remainder of the energy performance contract finance term.

(c) If an excess in guaranteed cost savings in any year of the guarantee period is revealed in a measurement and verification report, the guaranteed cost savings remain with the governmental entity. Guaranteed cost savings may not be used to cover potential shortfalls in subsequent years or actual guaranteed cost savings shortages in previous years of a guarantee period.”

Section 6. Legislative intent. It is the intent of the legislature that for purposes of [this act], in the 2021 biennium the department of environmental quality implement the energy performance contract program within appropriations provided in House Bill No. 2.

Section 7. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2019

CHAPTER NO. 312

[SB 205]

AN ACT PREVENTING ABUSERS OF VULNERABLE ADULTS FROM BENEFITING FINANCIALLY; PROVIDING DEFINITIONS; AND AMENDING SECTION 72-2-813, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 72-2-813, MCA, is amended to read:

“72-2-813. Effect of financial exploitation or homicide on intestate succession, wills, trusts, joint assets, life insurance, and beneficiary designations. (1) For purposes of this section, the following definitions apply:

(a) “Abuser” means a person who participates in the willful and unlawful financial exploitation of a vulnerable adult.

(a)(b) “Disposition or appointment of property” includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.

(c) “Financial exploitation” means the act of purposely or knowingly standing in a position of trust and confidence with a vulnerable adult and obtaining, using, or attempting to obtain or use at least \$1,000, whether in one or more acts, of a vulnerable adult’s money, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the money, assets, or property or to benefit someone other than the vulnerable adult. Financial exploitation may include but is not limited to:

(i) acting or failing to act, including through the use of a power of attorney, guardianship, or conservatorship of a vulnerable adult, in order to:

(A) obtain control through deception, intimidation, fraud, menace, or undue influence over a vulnerable adult’s money, assets, or property to deprive the vulnerable adult of the ownership, use, benefit, or possession of the money, assets, or property; or

(B) convert money, assets, or property of a vulnerable adult to deprive the vulnerable adult of the ownership, use, benefit, or possession of the money, assets, or property;

(ii) misappropriating or misusing money belonging to a vulnerable adult from a personal or joint account; or

(iii) *failing to use a vulnerable adult's income and assets to provide the necessities required for the vulnerable adult's support and maintenance.*

~~(b)~~(d) "Governing instrument" means a governing instrument executed by the decedent.

~~(c)~~(e) "Revocable", with respect to a disposition, appointment, provision, or nomination, means one under which the decedent, at the time of or immediately before death, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the *abuser* or killer, whether or not the decedent was then empowered to designate the decedent in place of the decedent's *abuser* or killer and whether or not the decedent then had capacity to exercise the power.

(f) "*Vulnerable adult*" means a person who is:

(i) *60 years of age or older;*

(ii) *functionally, mentally, or physically unable to provide self-care;*

(iii) *deemed incapacitated under 72-5-316;*

(iv) *developmentally disabled;*

(v) *admitted to a facility licensed by the department of public health and human services;*

(vi) *receiving services from a home health agency or hospice provider;*

(vii) *receiving services from an individual provider; or*

(viii) *self-directing care and receiving services from a personal aide for a physical disability.*

(2) An individual who *financially exploits* or feloniously and intentionally kills the decedent forfeits all benefits under this chapter with respect to the decedent's estate, including an intestate share, an elective share, an omitted spouse's or child's share, a homestead allowance, exempt property, and a family allowance. If the decedent died intestate, the decedent's intestate estate passes as if the *abuser* or killer disclaimed the *abuser's* or killer's intestate share.

(3) The *financial exploitation* or felonious and intentional killing of the decedent:

(a) *revokes any revocable:*

(i) *disposition or appointment of property made by the decedent to the abuser or killer in a governing instrument;*

(ii) *provision in a governing instrument conferring a general or nongeneral power of appointment on the abuser or killer; and*

(iii) *nomination of the abuser or killer in a governing instrument, nominating or appointing the abuser or killer to serve in any fiduciary or representative capacity, including a personal representative, executor, trustee, or agent; and*

(b) *severs the interests of the decedent and the abuser or killer in property held by them at the time of the ~~killing~~ financial exploitation or killing as joint tenants with the right of survivorship and transforms the interests of the decedent and the abuser or killer into tenancies in common.*

(4) A severance under subsection (3)(b) does not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the *abuser* or killer unless a writing declaring the severance has been noted, registered, filed, or recorded in records *that are* appropriate to the kind and location of the property, ~~which records and that are~~ relied upon, *on as evidence of ownership* in the ordinary course of transactions involving such property, ~~as evidence of ownership.~~

(5) Provisions of a governing instrument are given effect as if the *abuser* or killer disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the *abuser* or killer predeceased the decedent.

(6) A wrongful acquisition of property or interest by ~~a~~ *an abuser* or killer not covered by this section must be treated in accordance with the principle that ~~a~~ *an abuser* or killer cannot profit from the *abuser's* or killer's wrong.

(7) After all right to appeal has been exhausted, a judgment of conviction establishing criminal accountability for the *financial exploitation* or felonious and intentional killing of the decedent conclusively establishes the convicted individual as the decedent's *abuser* or killer for purposes of this section. In the absence of a conviction, the court, upon the petition of an interested person, shall determine whether, under the preponderance of evidence standard, the individual would be found criminally accountable for the *financial exploitation* or felonious and intentional killing of the decedent. If the court determines that under that standard the individual would be found criminally accountable for the *financial exploitation* or felonious and intentional killing of the decedent, the determination conclusively establishes ~~that the~~ individual as the decedent's *abuser* or killer for purposes of this section.

(8) (a) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by *financial exploitation* or an intentional and felonious killing, or for having taken any other action in good faith reliance on the validity of the governing instrument, upon request and satisfactory proof of the decedent's death, before the payor or other third party received written notice of a claimed forfeiture or revocation under this section. A payor or other third party does not have a duty or obligation to make any determination as to whether the decedent was a victim of a homicide or to seek any evidence with respect to a homicide even if the circumstances of the decedent's death are suspicious or questionable as to the beneficiary's participation in a homicide. *A payor or other third party does not have a duty or obligation to make any determination as to whether the decedent was a victim of financial exploitation or to seek any evidence with respect to financial exploitation even if the circumstances are suspicious or questionable as to the beneficiary's participation in financial exploitation.* A payor or other third party is only liable for actions taken 2 or more business days after the actual receipt by the payor or other third party of written notice. The payor or other third party may be liable for actions taken pursuant to the governing instrument only if the form of the service is that described in subsection (8)(b).

(b) The written notice must indicate the name of the decedent, the name of the person asserting an interest, the nature of the payment or item of property or other benefit, and a statement that a claim of forfeiture or revocation is being made under this section. Written notice of a claimed forfeiture or revocation under subsection (8)(a) must be mailed to the payor's or other third party's main office or home by certified mail, return receipt requested, or served ~~upon~~ *on* the payor or other third party in the same manner as a summons in a civil action. Notice to a sales representative of the payor or other third party does not constitute notice to the payor or other third party. Upon receipt of written notice of a claimed forfeiture or revocation under this section, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. In addition to the actions available under this section, the payor or other third party may take any action authorized by law or the governing instrument. If probate proceedings have not been commenced, the payor or other third party shall file with the court a copy of the written notice received by the payor or

other third party, with the payment of funds or transfer or deposit of property. The court may not charge a filing fee to the payor or other third party for the payment to the court of amounts owed or transferred to or deposited with the court or any item of property. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement in accordance with the determination. A filing fee, if any, may be charged upon disbursement either to the recipient or against the funds or property on deposit with the court, in the discretion of the court. Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

(9) (a) A bona fide purchaser who purchases property or who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation is neither obligated under this section to return the payment, item of property, or benefit nor liable under this section for the amount of the payment or the value of the item of property or benefit. However, a person who, not for value, receives a payment, item of property, or other benefit to which the person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who is entitled to it under this section.

(b) If this section or any part of this section is preempted by federal law, other than the federal Employee Retirement Income Security Act of 1974, as amended, with respect to a payment, an item of property, or any other benefit covered by this section, a person who, not for value, receives the payment, item of property, or other benefit to which the person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who would have been entitled to it were this section or part of this section not preempted.

(10) For the purposes of this section, a felonious and intentional killing includes a deliberate homicide as defined in 45-5-102 and a mitigated deliberate homicide as defined in 45-5-103.”

Approved May 7, 2019

CHAPTER NO. 313

[SB 225]

AN ACT GENERALLY REVISING THE PROVISIONS OF THE UNIFORM PROBATE CODE; REVISING ESTATES, TRUSTS, AND FIDUCIARY RELATIONSHIP LAWS; ADOPTING THE UNIFORM DISCLAIMER OF PROPERTY INTERESTS ACT; ADOPTING THE UNIFORM REAL PROPERTY TRANSFER ON DEATH ACT; AMENDING SECTIONS 72-1-103, 72-1-201, 72-1-208, 72-1-302, 72-1-303, 72-2-112, 72-2-114, 72-2-116, 72-2-118, 72-2-223, 72-2-225, 72-2-228, 72-2-230, 72-2-412, 72-2-413, 72-2-415, 72-2-613, 72-2-616, 72-2-712, 72-2-716, 72-2-717, 72-2-813, 72-2-814, 72-3-102, 72-3-112, 72-3-122, 72-3-131, 72-3-201, 72-3-202, 72-3-203, 72-3-401, 72-3-404, 72-3-502, 72-3-504, 72-3-514, 72-3-607, 72-3-611, 72-3-613, 72-3-618, 72-3-631, 72-3-803, 72-3-815, 72-3-917, 72-3-1012, 72-3-1013, 72-4-203, 72-6-111, 72-7-401, AND 72-15-301, MCA; AND REPEALING SECTIONS 72-2-215, 72-2-221, 72-2-222, 72-2-224, 72-2-226, 72-2-227, 72-2-811, 72-3-113, 72-3-309, 72-3-633, 72-6-121, AND 72-6-123, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Purpose – rule of construction. (1) This code shall be liberally construed and applied to promote its underlying purposes and policies.

(2) The underlying purposes and policies of this code are to:

(a) simplify and clarify the law concerning the affairs of decedents, missing persons, protected persons, minors, and incapacitated persons;

(b) discover and make effective the intent of a decedent in distribution of the decedent's property;

(c) promote a speedy and efficient system for liquidating the estate of the decedent and making distribution to the decedent's successors;

(d) facilitate use and enforcement of certain trusts; and

(e) make uniform the law among the various jurisdictions.

Section 2. Severability. If any provision of this code or the application of this code to any person or circumstances is held invalid, the invalidity may not affect other provisions or applications of the code which can be given effect without the invalid provision or application, and to this end the provisions of this code are declared to be severable.

Section 3. Section 72-1-103, MCA, is amended to read:

"72-1-103. General definitions. Subject to additional definitions contained in the subsequent chapters that are applicable to specific chapters, parts, or sections and unless the context otherwise requires, in chapters 1 through 6, the following definitions apply:

(1) "Agent" includes an attorney-in-fact under a durable or nondurable power of attorney, an individual authorized to make decisions concerning another's health care, and an individual authorized to make decisions for another under a natural death act.

(2) "Application" means a written request to the clerk for an order of informal probate or appointment under chapter 3, part 2.

(3) "Beneficiary", as it relates to:

(a) a trust beneficiary, includes a person who has any present or future interest, vested or contingent, and also includes the owner of an interest by assignment or other transfer;

(b) a charitable trust, includes any person entitled to enforce the trust;

(c) a beneficiary of a beneficiary designation, refers to a beneficiary of:

(i) an account with POD designation or a security registered in beneficiary form (TOD); or

(ii) any other nonprobate transfer at death; and

(d) a beneficiary designated in a governing instrument, includes a grantee of a deed, a devisee, a trust beneficiary, a beneficiary of a beneficiary designation, a donee, and a person in whose favor a power of attorney or a power held in any individual, fiduciary, or representative capacity is exercised.

(4) "Beneficiary designation" refers to a governing instrument naming a beneficiary of:

(a) an account with POD designation or a security registered in beneficiary form (TOD); or

(b) any other nonprobate transfer at death.

(5) "Child" includes an individual entitled to take as a child under chapters 1 through 5 by intestate succession from the parent whose relationship is involved and excludes a person who is only a stepchild, a foster child, a grandchild, or any more remote descendant.

(6) (a) "Claims", in respect to estates of decedents and protected persons, includes liabilities of the decedent or protected person, whether arising in contract, in tort, or otherwise, and liabilities of the estate that arise at or after

the death of the decedent or after the appointment of a conservator, including funeral expenses and expenses of administration.

(b) The term does not include estate taxes or demands or disputes regarding title of a decedent or protected person to specific assets alleged to be included in the estate.

(7) “Clerk” or “clerk of court” means the clerk of the district court.

(8) “Conservator” means a person who is appointed by a court to manage the estate of a protected person.

(9) “Court” means the district court in this state having jurisdiction in matters relating to the affairs of decedents.

(10) “Descendant” of an individual means all of the individual’s descendants of all generations, with the relationship of parent and child at each generation being determined by the definition of child and parent contained in this *section code*.

(11) “Devise” when used as a noun means a testamentary disposition of real or personal property and when used as a verb means to dispose of real or personal property by will.

(12) “Devisee” means a person designated in a will to receive a devise. For purposes of chapter 3, in the case of a devise to an existing trust or trustee or to a trustee or trust described by will, the trust or trustee is the devisee and the beneficiaries are not devisees.

(13) “Disability” means cause for a protective order as described by 72-5-409.

(14) “Distributee” means any person who has received property of a decedent from the decedent’s personal representative other than as a creditor or purchaser. A testamentary trustee is a distributee only to the extent of distributed assets or increment to distributed assets remaining in the trustee’s hands. A beneficiary of a testamentary trust to whom the trustee has distributed property received from a personal representative is a distributee of the personal representative. For purposes of this provision, “testamentary trustee” includes a trustee to whom assets are transferred by will, to the extent of the devised assets.

(15) “Estate” includes the property of the decedent, trust, or other person whose affairs are subject to chapters 1 through 5 as originally constituted and as it exists from time to time during administration.

(16) “Exempt property” means that property of a decedent’s estate that is described in 72-2-413.

(17) “Fiduciary” includes a personal representative, guardian, conservator, and trustee.

(18) “Foreign personal representative” means a personal representative appointed by another jurisdiction.

(19) “Formal proceedings” means proceedings conducted before a judge with notice to interested persons.

(20) “Governing instrument” means a deed; will; trust; insurance or annuity policy; account with POD designation; security registered in beneficiary form (TOD); pension, profit-sharing, retirement, or similar benefit plan; instrument creating or exercising a power of appointment or a power of attorney; or dispositive, appointive, or nominative instrument of any similar type.

(21) “Guardian” means a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment but excludes one who is merely a guardian ad litem.

(22) “Heirs”, except as controlled by 72-2-721, means persons, including the surviving spouse and the state, who are entitled under the statutes of intestate succession to the property of a decedent.

(23) “Incapacitated person” has the meaning provided in 72-5-101.

(24) “Informal proceedings” means proceedings conducted without notice to interested persons by the clerk of court for probate of a will or appointment of a personal representative.

(25) “Interested person” includes heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent, ward, or protected person. The term also includes persons having priority for appointment as personal representative and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of and matter involved in any proceeding.

(26) “Issue” of a person means a descendant.

(27) “Joint tenants with the right of survivorship” includes co-owners of property held under circumstances that entitle one or more to the whole of the property on the death of the other or others but excludes forms of co-ownership registration in which the underlying ownership of each party is in proportion to that party’s contribution.

(28) “Lease” includes an oil, gas, coal, or other mineral lease.

(29) “Letters” includes letters testamentary, letters of guardianship, letters of administration, and letters of conservatorship.

(30) “Minor” means a person who is under 18 years of age.

(31) “Mortgage” means any conveyance, agreement, or arrangement in which property is used as security.

(32) “Nonresident decedent” means a decedent who was domiciled in another jurisdiction at the time of death.

(33) “Organization” means a corporation, business trust, estate, trust, partnership, joint venture, association, government or governmental subdivision or agency, or any other legal or commercial entity.

(34) “Parent” includes any person entitled to take, or who would be entitled to take if the child died without a will, as a parent under chapters 1 through 5 by intestate succession from the child whose relationship is in question and excludes any person who is only a stepparent, foster parent, or grandparent.

(35) “Payor” means a trustee, insurer, business entity, employer, government, governmental agency or subdivision, or any other person authorized or obligated by law or a governing instrument to make payments.

(36) “Person” means an individual, a corporation, an organization, or other legal entity.

(37) “Personal representative” includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status. “General personal representative” excludes special administrator.

(38) “Petition” means a written request to the court for an order after notice.

(39) “Proceeding” includes action at law and suit in equity.

(40) “Property” includes both real and personal property or any interest in that property and means anything that may be the subject of ownership.

(41) “Protected person” has the meaning provided in 72-5-101.

(42) “Protective proceeding” has the meaning provided in 72-5-101.

(43) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(43)(44) “Security” includes any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease; collateral trust certificate; transferable share; voting trust certificate;

in general, any interest or instrument commonly known as a security; any certificate of interest or participation; or any temporary or interim certificate, receipt, or certificate of deposit for or any warrant or right to subscribe to or purchase any of the foregoing.

(44)(45) "Settlement", in reference to a decedent's estate, includes the full process of administration, distribution, and closing.

(46) "*Sign*" means, with present intent to authenticate or adopt a record other than a will:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

(45)(47) "Special administrator" means a personal representative as described by chapter 3, part 7.

(46)(48) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

(47)(49) "Successor personal representative" means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

(48)(50) "Successors" means persons, other than creditors, who are entitled to property of a decedent under the decedent's will or chapters 1 through 5.

(49)(51) "Supervised administration" refers to the proceedings described in chapter 3, part 4.

(50)(52) "Survive" means that an individual has neither predeceased an event, including the death of another individual, nor is considered to have predeceased an event under 72-2-114 or 72-2-712. The term includes its derivatives, such as "survives", "survived", "survivor", and "surviving".

(51)(53) "Testacy proceeding" means a proceeding to establish a will or determine intestacy.

(52)(54) "Testator" includes an individual of either sex.

(53)(55) "Trust" includes an express trust, private or charitable, with additions to the trust, wherever and however created. The term also includes a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. The term excludes other constructive trusts and excludes resulting trusts; conservatorships; personal representatives; trust accounts as defined in 72-6-111 and Title 72, chapter 6, parts 2 and 3; custodial arrangements pursuant to chapter 26; business trusts providing for certificates to be issued to beneficiaries; common trust funds; voting trusts; security arrangements; liquidation trusts; trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind; and any arrangement under which a person is nominee or escrowee for another.

(54)(56) "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by court.

(55)(57) "Ward" means an individual described in 72-5-101.

(56)(58) "Will" includes codicil and any testamentary instrument that merely appoints an executor, revokes or revises another will, nominates a guardian, or expressly excludes or limits the right of an individual or class to succeed to property of the decedent passing by intestate succession."

Section 4. Section 72-1-201, MCA, is amended to read:

"72-1-201. Territorial application. Except as otherwise provided in this code, this code applies to:

(1) the affairs and estates of decedents, missing persons, and persons to be protected in this state;

(2) the property of nonresidents located in this state or property coming into the control of a fiduciary who is subject to the laws of this state; ~~and~~

(3) incapacitated persons and minors in this state; *and*

(4) *survivorship and related accounts in this state.*"

Section 5. Section 72-1-208, MCA, is amended to read:

"72-1-208. Jury trial. (1) If duly demanded, a party is entitled to trial by jury in a formal testacy proceeding, ~~a formal proceeding for determination of heirship, and any other proceeding as may be provided for by law and any proceeding in which any controverted question of fact arises as to which any party has a constitutional right to trial by jury.~~

(2) If there is no right to trial by jury under subsection (1) or the right is waived, the court in its discretion may call a jury to decide any issue of fact, in which case the verdict is advisory only."

Section 6. Section 72-1-302, MCA, is amended to read:

"72-1-302. Waiver of notice. A person, including a guardian ad litem, conservator, or other fiduciary, may waive notice by a writing signed by the person or the person's attorney and filed in the proceeding. *A person for whom a guardianship or other protective order is sought, a ward, or a protected person may not waive notice.*"

Section 7. Section 72-1-303, MCA, is amended to read:

"72-1-303. Pleadings – when orders or notice binding one binds another – representation. In formal proceedings involving trusts or estates of decedents, minors, protected persons, or incapacitated persons and in judicially supervised settlements, the following apply:

(1) Interests to be affected must be described in pleadings that give reasonable information to owners by name or class, by reference to the instrument creating the interests, or in other appropriate manner.

(2) Persons are bound by orders binding others in the following cases:

(a) Orders binding the sole holder or all coholders of a power of revocation or a presently exercisable general power of appointment, including one in the form of a power of amendment, bind other persons to the extent their interests, as objects, takers in default, or otherwise, are subject to the power.

(b) (i) To the extent there is no conflict of interest between them or among persons represented, orders binding a:

(A) conservator bind the person whose estate the conservator controls;

(B) guardian bind the ward if a conservator of the ward's estate has not been appointed;

(C) trustee bind beneficiaries of the trust in proceedings to probate a will establishing or adding to a trust, to review the acts or accounts of a prior fiduciary, and in proceedings involving creditors or other third parties; ~~and~~

(D) personal representative bind persons interested in the undistributed assets of a decedent's estate in actions or proceedings by or against the estate; *and*

(E) *a sole holder or all co-holders of a general testamentary power of appointment binds other persons to the extent their interests as objects, takers in default, or otherwise are subject to the power.*

(ii) If there is no conflict of interest and a conservator or guardian has not been appointed, a parent may represent the parent's minor child.

(c) An unborn or unascertained person who is not otherwise represented is bound by an order to the extent the person's interest is adequately represented by another party having a substantially identical interest in the proceeding.

(3) Notice is required as follows:

(a) Notice as prescribed by 72-1-301 must be given to every interested person or to one who can bind an interested person as described in subsection

(2)(a) or (2)(b). Notice may be given both to a person and to another who may bind the person.

(b) Notice is given to unborn or unascertained persons, who are not represented under subsection (2)(a) or (2)(b), by giving notice to all known persons whose interests in the proceedings are substantially identical to those of the unborn or unascertained persons.

(4) At any point in a proceeding, a court may appoint a guardian ad litem to represent the interest of a minor, an incapacitated, unborn, or unascertained person, or a person whose identity or address is unknown if the court determines that representation of the interest otherwise would be inadequate. If not precluded by conflict of interests, a guardian ad litem may be appointed to represent several persons or interests. The court shall set out its reasons for appointing a guardian ad litem as a part of the record of the proceeding."

Section 8. Section 72-2-112, MCA, is amended to read:

"72-2-112. Share of spouse. The intestate share of a decedent's surviving spouse is:

(1) the entire intestate estate if:

(a) no descendant or parent of the decedent survives the decedent; or

(b) all of the decedent's surviving descendants are also descendants of the surviving spouse and there is no other descendant of the surviving spouse who survives the decedent;

(2) the first ~~\$200,000~~ *\$300,000*, plus three-fourths of any balance of the intestate estate, if no descendant of the decedent survives the decedent but a parent of the decedent survives the decedent;

(3) the first ~~\$150,000~~ *\$225,000*, plus one-half of any balance of the intestate estate, if all of the decedent's surviving descendants are also descendants of the surviving spouse and the surviving spouse has one or more surviving descendants who are not descendants of the decedent;

(4) the first ~~\$100,000~~ *\$150,000*, plus one-half of any balance of the intestate estate, if one or more of the decedent's surviving descendants are not descendants of the surviving spouse."

Section 9. Section 72-2-114, MCA, is amended to read:

"72-2-114. Requirement that heir survive decedent for 120 hours. An individual who fails to survive the decedent by 120 hours is ~~considered~~ *deemed* to have predeceased the decedent for purposes of homestead allowance, exempt property, and intestate succession, and the decedent's heirs are determined accordingly. If it is not established by clear and convincing evidence that an individual who would otherwise be an heir survived the decedent by 120 hours, it is ~~considered~~ *deemed* that the individual failed to survive for the required period. This section is not to be applied if its application would result in a taking of intestate estate by the state under 72-2-115."

Section 10. Section 72-2-116, MCA, is amended to read:

"72-2-116. Representation. (1) As used in this section, the following definitions apply:

(a) "Deceased descendant", "deceased parent", or "deceased grandparent" means a descendant, parent, or grandparent who either predeceased the decedent or is ~~considered~~ *deemed* to have predeceased the decedent under 72-2-114.

(b) "Surviving descendant" means a descendant who neither predeceased the decedent nor is ~~considered~~ *deemed* to have predeceased the decedent under 72-2-114.

(2) (a) If, under 72-2-113(1)(a), a decedent's intestate estate or a part of the intestate estate passes by representation to the decedent's descendants, the estate or part of the estate is divided into as many equal shares as there are:

(i) surviving descendants in the generation nearest to the decedent that contains one or more surviving descendants; and

(ii) deceased descendants in the same generation who left surviving descendants, if any.

(b) Each surviving descendant in the nearest generation is allocated one share. The share of each deceased descendant in the same generation as the surviving descendant is divided in the same manner, with the subdivision repeating at each succeeding generation until the property is fully allocated among surviving descendants.

(3) (a) If, under 72-2-113(1)(c) or (1)(d), a decedent's intestate estate or a part of the intestate estate passes by representation to the descendants of the decedent's deceased parents or either of them or to the descendants of the decedent's deceased paternal or maternal grandparents or either of them, the estate or part of the estate is divided into as many equal shares as there are:

(i) surviving descendants in the generation nearest the deceased parents or either of them or nearest the deceased grandparents or either of them that contains one or more surviving descendants; and

(ii) deceased descendants in the same generation who left surviving descendants, if any.

(b) Each surviving descendant in the nearest generation is allocated one share. The share of each deceased descendant in the same generation as the surviving descendant is divided in the same manner, with the subdivision repeating at each succeeding generation until the property is fully allocated among surviving descendants."

Section 11. Section 72-2-118, MCA, is amended to read:

"72-2-118. Afterborn heirs. An individual in gestation at a particular time is treated as living at that time if the individual lives 120 hours or more after birth. *If it is not established by clear and convincing evidence that an individual in gestation at the decedent's death lived 120 hours after birth, it is deemed that the individual failed to survive for the required period.*"

Section 12. Parent barred from inheriting in certain circumstances.

(1) A parent is barred from inheriting from or through a child of the parent if:

(a) the parent's parental rights were terminated and the parent-child relationship was not judicially reestablished; or

(b) the child died before reaching 18 years of age and there is clear and convincing evidence that immediately before the child's death the parental rights of the parent could have been terminated under law of this state other than this code on the basis of nonsupport, abandonment, abuse, neglect, or other actions or inactions of the parent toward the child.

(2) For the purpose of intestate succession from or through the deceased child, a parent who is barred from inheriting under this section is treated as if the parent predeceased the child.

Section 13. Definitions. In [sections 13 through 22]:

(1) As used in sections other than [section 17], "decedent's nonprobate transfers to others" means the amounts that are included in the augmented estate under [section 17].

(2) "Fractional interest in property held in joint tenancy with the right of survivorship," whether the fractional interest is unilaterally severable or not, means the fraction, the numerator of which is one and the denominator of which, if the decedent was a joint tenant, is one plus the number of joint tenants who survive the decedent and which, if the decedent was not a joint tenant, is the number of joint tenants.

(3) "Marriage," as it relates to a transfer by the decedent during marriage, means any marriage of the decedent to the decedent's surviving spouse.

(4) “Nonadverse party” means a person who does not have a substantial beneficial interest in the trust or other property arrangement that would be adversely affected by the exercise or nonexercise of the power that person possesses respecting the trust or other property arrangement. A person having a general power of appointment over property is deemed to have a beneficial interest in the property.

(5) “Power” or “power of appointment” includes a power to designate the beneficiary of a beneficiary designation.

(6) “Presently exercisable general power of appointment” means a power of appointment under which, at the time in question, the decedent, whether or not the decedent then had the capacity to exercise the power, held a power to create a present or future interest in the decedent, the decedent’s creditors, the decedent’s estate, or creditors of the decedent’s estate, and includes a power to revoke or invade the principal of a trust or other property arrangement.

(7) “Property” includes values subject to a beneficiary designation.

(8) “Right to income” includes a right to payments under a commercial or private annuity, an annuity trust, a unitrust, or a similar arrangement.

(9) “Transfer,” as it relates to a transfer by or of the decedent, includes:

(a) an exercise or release of a presently exercisable general power of appointment held by the decedent;

(b) a lapse at death of a presently exercisable general power of appointment held by the decedent; and

(c) an exercise, release, or lapse of a general power of appointment that the decedent created in the decedent and of a power described in [section 17(2)(b)] that the decedent conferred on a nonadverse party.

Section 14. Elective share. (1) The surviving spouse of a decedent who dies domiciled in this state has a right of election, under the limitations and conditions stated in [sections 13 through 22], to take an elective-share amount equal to 50% of the value of the marital-property portion of the augmented estate.

(2) If the sum of the amounts described in [sections 19 and 21(1)(a)], and that part of the elective-share amount payable from the decedent’s net probate estate and nonprobate transfers to others under [section 21(3) and (4)] is less than \$75,000, the surviving spouse is entitled to a supplemental elective-share amount equal to \$75,000, minus the sum of the amounts described in those sections. The supplemental elective-share amount is payable from the decedent’s net probate estate and from recipients of the decedent’s nonprobate transfers to others in the order of priority set forth in [section 21(3) and (4)].

(3) If the right of election is exercised by or on behalf of the surviving spouse, the surviving spouse’s homestead allowance, exempt property, and family allowance, if any, are not charged against but are in addition to the elective-share and supplemental elective-share amounts.

(4) The right, if any, of the surviving spouse of a decedent who dies domiciled outside this state to take an elective share in property in this state is governed by the law of the decedent’s domicile at death.

Section 15. Composition of the augmented estate. (1) Subject to [section 20], the value of the augmented estate, to the extent provided in [sections 16, 17, 18, and 19], consists of the sum of the values of all property, whether real or personal; movable or immovable, tangible or intangible, wherever situated, that constitute:

(a) the decedent’s net probate estate;

(b) the decedent’s nonprobate transfers to others;

(c) the decedent’s nonprobate transfers to the surviving spouse; and

(d) the surviving spouse’s property and nonprobate transfers to others.

(2) The value of the marital-property portion of the augmented estate consists of the sum of the values of the four components of the augmented estate as determined under subsection (1) multiplied by the following percentage:

If the decedent and the spouse
were married to each other:

The percentage is:

Less than 1 year	3%
1 year but less than 2 years	6%
2 years but less than 3 years	12%
3 years but less than 4 years	18%
4 years but less than 5 years	24%
5 years but less than 6 years	30%
6 years but less than 7 years	36%
7 years but less than 8 years	42%
8 years but less than 9 years	48%
9 years but less than 10 years	54%
10 years but less than 11 years	60%
11 years but less than 12 years	68%
12 years but less than 13 years	76%
13 years but less than 14 years	84%
14 years but less than 15 years	92%
15 years or more	100%

Section 16. Decedent's net probate estate. The value of the augmented estate includes the value of the decedent's probate estate, reduced by funeral and administration expenses, homestead allowance, family allowances, exempt property, and enforceable claims.

Section 17. Decedent's nonprobate transfers to others. The value of the augmented estate includes the value of the decedent's nonprobate transfers to others, not included under [section 16], of any of the following types, in the amount provided respectively for each type of transfer:

(1) Property owned or owned in substance by the decedent immediately before death that passed outside probate at the decedent's death. Property included under this category consists of:

(a) Property over which the decedent alone, immediately before death, held a presently exercisable general power of appointment. The amount included is the value of the property subject to the power, to the extent the property passed at the decedent's death, by exercise, release, lapse, in default, or otherwise, to or for the benefit of any person other than the decedent's estate or surviving spouse.

(b) The decedent's fractional interest in property held by the decedent in joint tenancy with the right of survivorship. The amount included is the value of the decedent's fractional interest, to the extent the fractional interest passed by right of survivorship at the decedent's death to a surviving joint tenant other than the decedent's surviving spouse.

(c) The decedent's ownership interest in property or accounts held in POD, TOD, or co-ownership registration with the right of survivorship. The amount included is the value of the decedent's ownership interest, to the extent the decedent's ownership interest passed at the decedent's death to or for the benefit of any person other than the decedent's estate or surviving spouse.

(2) Property transferred in any of the following forms by the decedent during marriage:

(a) Any irrevocable transfer in which the decedent retained the right to the possession or enjoyment of, or to the income from, the property if and to the extent the decedent's right terminated at or continued beyond the decedent's

death. The amount included is the value of the fraction of the property to which the decedent's right related, to the extent the fraction of the property passed outside probate to or for the benefit of any person other than the decedent's estate or surviving spouse.

(b) Any transfer in which the decedent created a power over income or property, exercisable by the decedent alone or in conjunction with any other person, or exercisable by a nonadverse party, to or for the benefit of the decedent, creditors of the decedent, the decedent's estate, or creditors of the decedent's estate. The amount included with respect to a power over property is the value of the property subject to the power, and the amount included with respect to a power over income is the value of the property that produces or produced the income, to the extent the power in either case was exercisable at the decedent's death to or for the benefit of any person other than the decedent's surviving spouse or to the extent the property passed at the decedent's death, by exercise, release, lapse, in default, or otherwise, to or for the benefit of any person other than the decedent's estate or surviving spouse. If the power is a power over both income and property and the preceding sentence produces different amounts, the amount included is the greater amount.

(3) Property that passed during marriage and during the 2 year period next preceding the decedent's death as a result of a transfer by the decedent if the transfer was of any of the following types:

(a) Any property that passed as a result of the termination of a right or interest in, or power over, property that would have been included in the augmented estate under subsection (1)(a), (1)(b), or (1)(c), or under subsection (2), if the right, interest, or power had not terminated until the decedent's death. The amount included is the value of the property that would have been included under those subsections if the property were valued at the time the right, interest, or power terminated, and is included only to the extent the property passed upon termination to or for the benefit of any person other than the decedent or the decedent's estate, spouse, or surviving spouse. As used in this subsection (3)(a), "termination," with respect to a right or interest in property, occurs when the right or interest terminated by the terms of the governing instrument or the decedent transferred or relinquished the right or interest, and, with respect to a power over property, occurs when the power terminated by exercise, release, lapse, default, or otherwise, but, with respect to a power described in subsection (1)(a), "termination" occurs when the power terminated by exercise or release, but not otherwise.

(b) Any transfer of property, to the extent not otherwise included in the augmented estate, made to or for the benefit of a person other than the decedent's surviving spouse. The amount included is the value of the transferred property to the extent the transfers to any one donee in either of the 2 years exceeded the amount excludable from taxable gifts under 26 U.S.C. 2503(b) or its successor on the date next preceding the date of the decedent's death.

Section 18. Decedent's nonprobate transfers to surviving spouse.

Excluding property passing to the surviving spouse under the federal social security system, the value of the augmented estate includes the value of the decedent's nonprobate transfers to the decedent's surviving spouse, which consist of all property that passed outside probate at the decedent's death from the decedent to the surviving spouse by reason of the decedent's death, including:

(1) the decedent's fractional interest in property held as a joint tenant with the right of survivorship, to the extent that the decedent's fractional interest passed to the surviving spouse as surviving joint tenant;

(2) the decedent's ownership interest in property or accounts held in co-ownership registration with the right of survivorship, to the extent the decedent's ownership interest passed to the surviving spouse as surviving co-owner; and

(3) all other property that would have been included in the augmented estate under [section 17(1) or (2)] had it passed to or for the benefit of a person other than the decedent's spouse, surviving spouse, the decedent, or the decedent's creditors, estate, or estate creditors.

Section 19. Surviving spouse's property and nonprobate transfers to others. (1) Except to the extent included in the augmented estate under [sections 16 or 18], the value of the augmented estate includes the value of:

(a) property that was owned by the decedent's surviving spouse at the decedent's death, including:

(i) the surviving spouse's fractional interest in property held in joint tenancy with the right of survivorship;

(ii) the surviving spouse's ownership interest in property or accounts held in co-ownership registration with the right of survivorship; and

(iii) property that passed to the surviving spouse by reason of the decedent's death, but not including the spouse's right to homestead allowance, family allowance, exempt property, or payments under the federal social security system; and

(b) property that would have been included in the surviving spouse's nonprobate transfers to others, other than the spouse's fractional and ownership interests included under subsection (1)(a)(i) or (1)(a)(ii), had the spouse been the decedent.

(2) Property included under this section is valued at the decedent's death, taking the fact that the decedent predeceased the spouse into account, but, for purposes of subsection (1)(a)(i) and (1)(a)(ii), the values of the spouse's fractional and ownership interests are determined immediately before the decedent's death if the decedent was then a joint tenant or a co-owner of the property or accounts.

(3) The value of property included under this section is reduced by enforceable claims against the surviving spouse.

Section 20. Exclusions, valuation, and overlapping application.

(1) The value of any property is excluded from the decedent's nonprobate transfers to others:

(a) to the extent the decedent received adequate and full consideration in money or money's worth for a transfer of the property;

(b) if the property was transferred with the written joinder of, or if the transfer was consented to in writing before or after the transfer by, the surviving spouse; or

(c) if the property is life insurance or accident insurance payable to persons other than the decedent's surviving spouse or the decedent's estate.

(2) The value of property:

(a) included in the augmented estate under [sections 17, 18, or 19] is reduced in each category by enforceable claims against the included property; and

(b) includes the commuted value of any present or future interest and the commuted value of amounts payable under any trust, life insurance settlement option, annuity contract, public or private pension, disability compensation, death benefit or retirement plan, or any similar arrangement, exclusive of the federal social security system. The commuted value of life and term interests in income, annuity, or unitrust amount must be determined in accordance with U.S. treasury regulations for internal revenue purposes in effect at the time of the decedent's death.

(3) In case of overlapping application to the same property of [sections 17, 18, or 19], the property is included in the augmented estate under the provision yielding the greatest value, and under only one overlapping provision if they all yield the same value.

Section 21. Sources from which elective share payable. (1) In a proceeding for an elective share, the following are applied first to satisfy the elective-share amount and to reduce or eliminate any contributions due from the decedent's probate estate and recipients of the decedent's nonprobate transfers to others:

(a) amounts included in the augmented estate under [section 16] which pass or have passed to the surviving spouse by testate or intestate succession and amounts included in the augmented estate under [section 18];

(b) amounts included in the augmented estate that would have passed to the spouse but were disclaimed; and

(c) the marital-property portion of amounts included in the augmented estate under [section 19].

(2) The marital-property portion under subsection (1)(c) is computed by multiplying the value of the amounts included in the augmented estate under [section 19] by the percentage of the augmented estate set forth in the schedule in [section 15(2)] appropriate to the length of time the spouse and the decedent were married to each other.

(3) If, after the application of subsection (1), the elective-share amount is not fully satisfied, or the surviving spouse is entitled to a supplemental elective-share amount, amounts included in the decedent's net probate estate, other than assets passing to the surviving spouse by testate or intestate succession, and in the decedent's nonprobate transfers to others under [section 17(1) and (2)] are applied first to satisfy the unsatisfied balance of the elective-share amount or the supplemental elective-share amount. The decedent's net probate estate and that portion of the decedent's nonprobate transfers to others are so applied that liability for the unsatisfied balance of the elective-share amount or for the supplemental elective-share amount is apportioned among the recipients of the decedent's net probate estate and of that portion of the decedent's nonprobate transfers to others in proportion to the value of their interests.

(4) If, after the application of subsections (1) and (3), the elective-share or supplemental elective-share amount is not fully satisfied, the remaining portion of the decedent's nonprobate transfers to others is so applied that liability for the unsatisfied balance of the elective-share or supplemental elective-share amount is apportioned among the recipients of the remaining portion of the decedent's nonprobate transfers to others in proportion to the value of their interests therein.

(5) The unsatisfied balance of the elective-share or supplemental elective-share amount as determined under subsection (3) or (4) is treated as a general pecuniary devise for purposes of 72-3-913.

Section 22. Effect of premarital or marital agreement right to elect and of other rights. (1) In this section, "agreement" includes a subsequent agreement that affirms, modifies, or waives an earlier agreement.

(2) The right of election of a surviving spouse and the rights of the surviving spouse to homestead allowance, exempt property, and family allowance, or any of them, may be affirmed, modified, or waived wholly or partially, only by a written agreement signed by the surviving spouse, before or after the marriage. The agreement is enforceable without consideration.

(3) An agreement under subsection (2) is not enforceable if the surviving spouse proves that:

(a) the agreement was involuntary or the result of duress;

(b) the surviving spouse did not have access to independent legal representation under subsection (4);

(c) unless the surviving spouse had independent legal representation when the agreement was executed, the agreement did not include an explanation in plain language of the rights under subsection (2) being affirmed, modified, or waived; or

(d) before signing the agreement, the surviving spouse did not receive adequate financial disclosure under subsection (5).

(4) A surviving spouse had access to independent legal representation if:

(a) before signing an agreement, the surviving spouse had a reasonable time to:

(i) decide whether to retain a lawyer to provide independent legal representation; and

(ii) locate a lawyer to provide independent legal representation, obtain the lawyer's advice, and consider the advice provided; and

(b) the other spouse was represented by a lawyer and the surviving spouse had the financial ability to retain a lawyer or the other spouse agreed to pay the reasonable fees and expenses of independent legal representation.

(5) A surviving spouse had adequate financial disclosure under this section if the surviving spouse:

(a) received a reasonably accurate description and good-faith estimate of the value of the property, liabilities, and income of the other spouse;

(b) expressly waived, in a separate signed record, the right to financial disclosure beyond the disclosure provided; or

(c) had adequate knowledge or a reasonable basis for having adequate knowledge of the information described in subsection (5)(a).

(6) Unless an agreement under subsection (2) provides to the contrary, a waiver of "all rights," or equivalent language, in the property or estate of a present or prospective spouse or a complete property settlement entered into after or in anticipation of separation or divorce is a waiver of all rights of elective share, homestead allowance, exempt property, and family allowance by the spouse in the property of the other spouse and a renunciation of all benefits that would otherwise pass to the renouncing spouse by intestate succession or by virtue of any will executed before the waiver or property settlement.

Section 23. Section 72-2-223, MCA, is amended to read:

"72-2-223. Right of election personal to surviving spouse – incapacitated surviving spouse. (1) The right of election may be exercised only by a surviving spouse who is living when the petition for the elective share is filed in the court under 72-2-225(1). If the election is not exercised by the surviving spouse personally, it may be exercised on the surviving spouse's behalf by the surviving spouse's conservator, guardian, or agent under the authority of a power of attorney.

(2) If the election is exercised on behalf of a surviving spouse who is an incapacitated person, the court shall set aside that portion of the elective-share and supplemental elective-share amounts due from the decedent's probate estate and recipients of the decedent's nonprobate transfers to others under ~~72-2-227(2) and (3)~~ [section 21(3) and (4)] and shall appoint a trustee to administer that property for the support of the surviving spouse. For the purposes of this subsection, an election on behalf of a surviving spouse by an agent under a durable power of attorney is presumed to be on behalf of a surviving spouse who is an incapacitated person. The trustee shall administer

the trust in accordance with the following terms and such additional terms as the court determines appropriate:

(a) Expenditures of income and principal may be made in the manner, when, and to the extent that the trustee determines suitable and proper for the surviving spouse's support, without court order but with regard to other support, income, and property of the surviving spouse exclusive of benefits of medical or other forms of assistance from any state or federal government or governmental agency for which the surviving spouse qualifies on the basis of need.

(b) During the surviving spouse's incapacity, neither the surviving spouse nor anyone acting on behalf of the surviving spouse has a power to terminate the trust; but if the surviving spouse regains capacity, the surviving spouse then acquires the power to terminate the trust and acquire full ownership of the trust property free of trust by delivering to the trustee a writing signed by the surviving spouse declaring the termination.

(c) Upon the surviving spouse's death, the trustee shall transfer the unexpended trust property in the following order:

(i) under the residuary clause, if any, of the will of the predeceased spouse against whom the elective share was taken, as if that predeceased spouse died immediately after the surviving spouse; or

(ii) to that predeceased spouse's heirs under 72-2-721."

Section 24. Section 72-2-225, MCA, is amended to read:

"72-2-225. Proceeding for elective share – time limit. (1) Except as provided in subsection (2), the election must be made by filing in the court and mailing or delivering to the personal representative, if any, a petition for the elective share within 9 months after the date of the decedent's death or within 6 months after the probate of the decedent's will, whichever limitation later expires. The surviving spouse shall give notice of the time and place set for hearing to persons interested in the estate and to the distributees and recipients of portions of the augmented estate whose interests will be adversely affected by the taking of the elective share. Except as provided in subsection (2), the decedent's nonprobate transfers to others described in ~~72-2-222(2)(b)~~ [section 17], is not included within the augmented estate for the purpose of computing the elective share if the petition is filed more than 9 months after the decedent's death.

(2) Within 9 months after the decedent's death, the surviving spouse may petition the court for an extension of time for making an election. If, within 9 months after the decedent's death, the spouse gives notice of the petition to all persons interested in the decedent's nonprobate transfers to others the court for cause shown by the surviving spouse may extend the time for election. If the court grants the spouse's petition for an extension, the decedent's nonprobate transfers to others described in ~~72-2-222(2)(b)~~ [section 17], is not excluded from the augmented estate for the purpose of computing the elective-share and supplemental elective-share amounts if the spouse makes an election by filing in the court and mailing or delivering to the personal representative, if any, a petition for the elective share within the time allowed by the extension.

(3) The surviving spouse may withdraw a demand for an elective share at any time before entry of a final determination by the court.

(4) After notice and hearing, the court shall determine the elective-share and supplemental elective-share amounts and shall order its payment from the assets of the augmented estate or by contribution as appears appropriate under ~~72-2-227~~ [section 21]. If it appears that a fund or property included in the augmented estate has not come into the possession of the personal representative or has been distributed by the personal representative, the

court nevertheless shall fix the liability of any person who has any interest in the fund or property or who has possession thereof, whether as trustee or otherwise. The proceeding may be maintained against fewer than all persons against whom relief could be sought, but no person is subject to contribution in any greater amount than the person would have been under ~~72-2-227~~ [section 21] if relief had been secured against all persons subject to contribution.

(5) The order or judgment of the court may be enforced as necessary in suit for contribution or payment in other courts of this state or other jurisdictions.”

Section 25. Section 72-2-228, MCA, is amended to read:

“72-2-228. Protection of payors and other third parties. (1) Although under ~~72-2-222~~ [section 17] a payment, item of property, or other benefit is included in the decedent’s nonprobate transfers to others, a payor or other third party is not liable for having made a payment or transferred an item of property or other benefit to a beneficiary designated in a governing instrument or for having taken any other action in *good faith* reliance on the validity of a governing instrument, upon request and satisfactory proof of the decedent’s death, before the payor or other third party received written notice from the surviving spouse or spouse’s representative of an intention to file a petition for the elective share or that a petition for the elective share has been filed. A payor or other third party is liable only for actions taken 2 or more business days after the payor or other third party received written notice of an intention to file a petition for the elective share or that a petition for the elective share has been filed. The written notice must indicate the name of the decedent, the date of the decedent’s death, the name of the person asserting an interest, the nature of the payment or item of property or other benefit, and a statement that the spouse intends to file a petition for the elective share or that a petition for the elective share has been filed. Any form of service of notice other than that described in subsection (2) is not sufficient to impose liability on a payor or other third party for actions taken pursuant to the governing instrument.

(2) The written notice must be mailed to the payor’s or other third party’s main office or home by *registered or* certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Notice to a sales representative of the payor or other third party does not constitute notice to the payor or other third party. Upon receipt of written notice of intention to file a petition for the elective share or that a petition for the elective share has been filed, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent’s estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents’ estates located in the county of the decedent’s residence. The availability of an action under this section does not prevent the payor or other third party from taking any other action authorized by law or the governing instrument. If probate proceedings have not been commenced, the payor or other third party shall file with the court a copy of the written notice received by the payor or other third party, with the payment of funds or transfer or deposit of property. The court may not charge a filing fee to the payor or other third party for the payment, transfer, or deposit. The court shall hold the funds or item of property and, upon its determination under 72-2-225(4), shall order disbursement in accordance with the determination. If no petition is filed in the court within the specified time under 72-2-225(1) or, if filed, the demand for an elective share is withdrawn under 72-2-225(3), the court shall order disbursement to the designated beneficiary. A filing fee, if any, may, in the discretion of the court, be charged upon disbursement either to the recipient or against the funds or

property on deposit with the court. Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims under the governing instrument or applicable law for the value of amounts paid to or items of property transferred to or deposited with the court.

(3) Upon petition to the probate court by the beneficiary designated in a governing instrument, the court may order that all or part of the property be paid to the beneficiary in an amount and subject to conditions consistent with this section.”

Section 26. Section 72-2-230, MCA, is amended to read:

“72-2-230. Personal liability of recipients. (1) Only original recipients of the decedent’s nonprobate transfers to others, and the donees of the recipients of the decedent’s nonprobate transfers to others, to the extent the donees have the property or its proceeds, are liable to make a proportional contribution toward satisfaction of the surviving spouse’s elective-share or supplemental elective-share amount. A person liable to make contribution may choose to give up the proportional part of the decedent’s nonprobate transfers to the person or to pay the value of the amount for which the person is liable.

(2) If any section or part of any section of this part is preempted by federal law with respect to a payment, an item of property, or any other benefit included in the decedent’s nonprobate transfers to others, a person who, not for value, receives the payment, item of property, or other benefit is obligated to return that payment, item of property, or benefit or is personally liable for the amount of that payment or the value of that item of property or benefit, as provided in ~~72-2-227~~ [section 21], to the person who would have been entitled to it were that section or part of that section not preempted.”

Section 27. Section 72-2-412, MCA, is amended to read:

“72-2-412. Homestead allowance. A decedent’s surviving spouse is entitled to a homestead allowance of ~~\$20,000~~ **\$22,500**. If there is no surviving spouse, each minor child and each dependent child of the decedent is entitled to a homestead allowance amounting to ~~\$20,000~~ **\$22,500** divided by the number of minor and dependent children of the decedent. The homestead allowance is exempt from and has priority over all claims against the estate. Homestead allowance is in addition to any share passing to the surviving spouse or minor or dependent child by the will of the decedent unless otherwise provided, by intestate succession, or by way of elective share.”

Section 28. Section 72-2-413, MCA, is amended to read:

“72-2-413. Exempt property. In addition to the homestead allowance, the decedent’s surviving spouse is entitled from the estate to a value, not exceeding ~~\$10,000~~ **\$15,000** in excess of any security interests therein, in household furniture, automobiles, furnishings, appliances, and personal effects. If there is no surviving spouse, the decedent’s children are entitled jointly to the same value. If encumbered chattels are selected and if the value in excess of security interests, plus that of other exempt property, is less than ~~\$10,000~~ **\$15,000** or if there is not ~~\$10,000~~ **\$15,000** worth of exempt property in the estate, the spouse or children are entitled to other assets of the estate, if any, to the extent necessary to make up the ~~\$10,000~~ **\$15,000** value. Rights to exempt property and assets needed to make up a deficiency of exempt property have priority over all claims against the estate, but the right to any assets to make up a deficiency of exempt property abates as necessary to permit earlier payment of homestead allowance and family allowance. These rights are in addition to any benefit or share passing to the surviving spouse or children by the decedent’s will unless otherwise provided, by intestate succession, or by way of elective share.”

Section 29. Section 72-2-415, MCA, is amended to read:

“72-2-415. Source, determination, and documentation. (1) If the estate is otherwise sufficient, property specifically devised may not be used to satisfy rights to homestead allowance or exempt property. Subject to this restriction, the surviving spouse, guardians of minor children, or children who are adults may select property of the estate as homestead allowance and exempt property. The personal representative may make those selections if the surviving spouse, the children, or the guardians of the minor children are unable or fail to do so within a reasonable time or if there is no guardian of a minor child. The personal representative may execute an instrument or deed of distribution to establish the ownership of property taken as homestead allowance or exempt property. The personal representative may determine the family allowance in a lump sum not exceeding ~~\$18,000~~ *\$27,000* or periodic installments not exceeding ~~\$1,500~~ *\$2,250* per month for 1 year and may disburse funds of the estate in payment of the family allowance and any part of the homestead allowance payable in cash. The personal representative or any interested person aggrieved by any selection, determination, payment, proposed payment, or failure to act under this section may petition the court for appropriate relief, which may include a family allowance other than that which the personal representative determined or could have determined.

(2) If the right to an elective share is exercised on behalf of a surviving spouse who is an incapacitated person, the personal representative may add any unexpended portions payable under the homestead allowance, exempt property, and family allowance to the trust established under 72-2-223(2).”

Section 30. Section 72-2-613, MCA, is amended to read:

“72-2-613. Antilapse – deceased devisee – class gifts. (1) As used in this section, the following definitions apply:

(a) “Alternative devise” means a devise that is expressly created by the will and that under the terms of the will may take effect instead of another devise on the happening of one or more events, including survival of the testator or failure to survive the testator, whether an event is expressed in condition-precedent, condition-subsequent, or any other form. A residuary clause constitutes an alternative devise with respect to a nonresiduary devise only if the will specifically provides that, upon lapse or failure, the nonresiduary devise or nonresiduary devises in general pass under the residuary clause.

(b) “Class member” includes an individual who fails to survive the testator but who would have taken under a devise in the form of a class gift had the individual survived the testator.

(c) “*Descendant of a grandparent*”, as used in subsection (2), means an individual who qualifies as a descendant of a grandparent of the testator or of the donor of a power of appointment under the:

(i) rules of construction applicable to a class gift created in the testator’s will if the devise or exercise of the power is in the form of a class gift; or

(ii) rules for intestate succession if the devise or exercise of the power is not in the form of a class gift.

(d) “*Descendants*”, as used in the phrase “*surviving descendants*” of a deceased devisee or class member in subsections (2)(a) and (2)(b), mean the descendants of a deceased devisee or class member who would take under a class gift created in the testator’s will.

(~~e~~) “Devise” includes an alternative devise, a devise in the form of a class gift, and an exercise of a power of appointment.

(~~d~~) “Devisee” includes:

(i) a class member if the devise is in the form of a class gift;

(ii) an individual or class member who was deceased at the time the testator executed the testator's will as well as an individual or class member who was then living but who failed to survive the testator; and

(iii) an appointee under a power of appointment exercised by the testator's will.

(~~f~~)(g) "Stepchild" means a child of the surviving, deceased, or former spouse of the testator or of the donor of a power of appointment but not a child of the testator or donor.

(~~f~~)(h) "Surviving ~~devisee~~", or in the phrase "surviving ~~descendant devisees~~" or "surviving ~~descendants~~" means a ~~devisee or a descendant devisees or descendants~~ who neither predeceased the testator nor ~~is considered~~ *are deemed* to have predeceased the testator under 72-2-712.

(~~g~~)(i) "Testator" includes the donee of a power of appointment if the power is exercised in the testator's will.

(2) If a devisee fails to survive the testator and is a grandparent, a descendant of a grandparent, or a stepchild of either the testator or the donor of a power of appointment exercised by the testator's will, the following apply:

(a) Except as provided in subsection (2)(d), if the devise is not in the form of a class gift and the deceased devisee leaves surviving descendants, a substitute gift is created in the devisee's surviving descendants. They take by representation the property to which the devisee would have been entitled had the devisee survived the testator.

(b) Except as provided in subsection (2)(d), if the devise is in the form of a class gift, other than a devise to "issue", "descendants", "heirs of the body", "heirs", "next of kin", "relatives", or "family" or a class described by language of similar import, a substitute gift is created in the surviving devisees and the surviving descendants of the deceased devisees. Each surviving devisee takes the share to which the devisee would have been entitled had the deceased devisees survived the testator. Each deceased devisee's surviving descendants who are substituted for the deceased devisee take by representation the share to which the deceased devisee would have been entitled had the deceased devisee survived the testator. For purposes of this ~~subsection (b)~~ *section*, "deceased devisee" means a class member who failed to survive the testator and left one or more surviving descendants.

(c) For purposes of 72-2-611, words of survivorship, such as in a devise to an individual "if the individual survives me" or in a devise to "my surviving children", are not, in the absence of additional evidence, a sufficient indication of an intent contrary to the application of this section.

(d) If the will creates an alternative devise with respect to a devise for which a substitute gift is created by subsection (2)(a) or (2)(b), the substitute gift is superseded by the alternative devise ~~only if an expressly designated devisee of the alternative devise is entitled to take under the will; if:~~

(i) *the alternative devise is in the form of a class gift and one or more members of the class is entitled to take under the will; or*

(ii) *the alternative devise is not in the form of a class gift and the expressly designated devisee of the alternative devise is entitled to take under the will.*

(e) Unless the language creating a power of appointment expressly excludes the substitution of the descendants of an appointee for the appointee, a surviving descendant of a deceased appointee of a power of appointment may be substituted for the appointee under this section, whether or not the descendant is an object of the power.

(3) If, under subsection (2), substitute gifts are created and not superseded with respect to more than one devise and the devises are alternative devises, one to the other, the determination of which of the substitute gifts takes effect is resolved as follows:

(a) Except as provided in subsection (3)(b), the devised property passes under the primary substitute gift.

(b) If there is a younger-generation devise, the devised property passes under the younger-generation substitute gift and not under the primary substitute gift.

(c) As used in this subsection (3), the following definitions apply:

(i) "Primary devise" means the devise that would have taken effect had all the deceased devisees of the alternative devises who left surviving descendants survived the testator.

(ii) "Primary substitute gift" means the substitute gift created with respect to the primary devise.

(iii) "Younger-generation devise" means a devise that:

(A) is to a descendant of a devisee of the primary devise;

(B) is an alternative devise with respect to the primary devise;

(C) is a devise for which a substitute gift is created; and

(D) would have taken effect had all the deceased devisees who left surviving descendants survived the testator except the deceased devisee or devisees of the primary devise.

(iv) "Younger-generation substitute gift" means the substitute gift created with respect to the younger-generation devise."

Section 31. Section 72-2-616, MCA, is amended to read:

"72-2-616. Nonademption of specific devises – unpaid proceeds of sale, condemnation, or insurance – sale by conservator or agent.

(1) A specific devisee has the right to the specifically devised property in the testator's estate at death and:

(a) any balance of the purchase price, together with any security interest, owing from a purchaser to the testator at death by reason of sale of the property;

(b) any amount of a condemnation award for the taking of the property unpaid at death;

(c) any proceeds unpaid at death on fire or casualty insurance on or other recovery for injury to the property;

(d) property owned by the testator at death and acquired as a result of foreclosure or obtained in lieu of foreclosure of the security interest for a specifically devised obligation;

(e) real or tangible personal property owned by the testator at death that the testator acquired as a replacement for specifically devised real or tangible personal property; and

(f) ~~unless the facts and circumstances indicate that ademption of the devise was intended by the testator or ademption of the devise is consistent with the testator's manifested plan of distribution, the value of the specifically devised property to the extent the specifically devised property is not in the testator's estate at death and its value or its replacement is not covered by subsections (1)(a) through (1)(e):~~

(f) if not covered by subsections (1)(a) through (1)(e), a pecuniary devise equal to the value as of its date of disposition of other specifically devised property disposed of during the testator's lifetime but only to the extent it is established that ademption would be inconsistent with the testator's manifested plan of distribution or that at the time the will was made, the date of disposition or otherwise, the testator did not intend ademption of the devise.

(2) If specifically devised property is sold or mortgaged by a conservator or an agent acting within the authority of a durable power of attorney for an incapacitated principal or if a condemnation award, insurance proceeds, or recovery for an injury to property is paid to a conservator or an agent acting within the authority of a durable power of attorney for an incapacitated principal, the specific devisee has the right to a general pecuniary devise equal to the net sale price, the amount of the unpaid loan, the condemnation award, the insurance proceeds, or the recovery.

(3) The right of the specific devisee under subsection (2) is reduced by any right the devisee has under subsection (1).

(4) For the purposes of the references in subsection (2) to a conservator, subsection (2) does not apply if, after the sale, mortgage, condemnation, casualty, or recovery, it was adjudicated that the testator's incapacity ceased and the testator survived the adjudication by 1 year.

(5) For the purposes of the references in subsection (2) to an agent acting within the authority of a durable power of attorney for an incapacitated principal:

(a) "incapacitated principal" means a principal who is an incapacitated person;

(b) no adjudication of incapacity before death is necessary; and

(c) the acts of an agent within the authority of a durable power of attorney are presumed to be for an incapacitated principal."

Section 32. Section 72-2-712, MCA, is amended to read:

"72-2-712. Requirement of survival by 120 hours. (1) For the purposes of chapters 1 through 5, except as provided in subsection (4), an individual who is not established by clear and convincing evidence to have survived an event, including the death of another individual, by 120 hours is ~~considered~~ *deemed* to have predeceased the event.

(2) Except as provided in subsection (4), for purposes of a provision of a governing instrument that relates to an individual surviving an event, including the death of another individual, an individual who is not established by clear and convincing evidence to have survived the event by 120 hours is ~~considered~~ *deemed* to have predeceased the event.

(3) (a) Except as provided in subsection (4), if:

(i) it is not established by clear and convincing evidence that one of two co-owners with right of survivorship survived the other co-owner by 120 hours, one-half of the property passes as if one had survived by 120 hours and one-half as if the other had survived by 120 hours; and

(ii) there are more than two co-owners and it is not established by clear and convincing evidence that at least one of them survived the others by 120 hours, the property passes in the proportion that one bears to the whole number of co-owners.

(b) For the purposes of this subsection (3), "co-owners with right of survivorship" includes joint tenants, tenants by the entireties, and other co-owners of property or accounts held under circumstances that entitle one or more to the whole of the property or account on the death of the other or others.

(4) Survival by 120 hours is not required if:

(a) the governing instrument contains language dealing explicitly with simultaneous deaths or deaths in a common disaster and that language is operable under the facts of the case;

(b) the governing instrument expressly indicates that an individual is not required to survive an event, including the death of another individual, by any specified period or expressly requires the individual to survive the event by a

specified period. However, survival of the event or the specified period must be established by clear and convincing evidence.

(c) the imposition of a 120-hour requirement of survival would cause a nonvested property interest or a power of appointment to fail to qualify for validity under 72-2-1002(1)(a), (2)(a), or (3)(a) or to become invalid under 72-2-1002(1)(b), (2)(b), or (3)(b); however, survival must be established by clear and convincing evidence; or

(d) the application of a 120-hour requirement of survival to multiple governing instruments would result in an unintended failure or duplication of a disposition. However, survival must be established by clear and convincing evidence.

(5) (a) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument who, under this section, is not entitled to the payment or item of property, or for having taken any other action in good faith reliance on the beneficiary's apparent entitlement under the terms of the governing instrument, before the payor or other third party received written notice of a claimed lack of entitlement under this section. A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written notice of a claimed lack of entitlement under this section.

(b) Written notice of a claimed lack of entitlement under subsection (5)(a) must be mailed to the payor's or other third party's main office or home by *registered or certified mail*, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of a claimed lack of entitlement under this section, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement in accordance with the determination. Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

(6) (a) A person who purchases property for value and without notice or who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation is neither obligated under this section to return the payment, item of property, or benefit nor liable under this section for the amount of the payment or the value of the item of property or benefit. However, a person who, not for value, receives a payment, item of property, or other benefit to which the person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who is entitled to it under this section.

(b) If this section or any part of this section is preempted by federal law with respect to a payment, an item of property, or any other benefit covered by this section, a person who, not for value, receives the payment, item of property, or other benefit to which the person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who would have been entitled to it were this section or part of this section not preempted."

Section 33. Section 72-2-716, MCA, is amended to read:

“72-2-716. Life insurance – retirement plan – account with POD designation – transfer-on-death registration – deceased beneficiary.

(1) As used in this section, the following definitions apply:

(a) “Alternative beneficiary designation” means a beneficiary designation that is expressly created by the governing instrument and that under the terms of the governing instrument may take effect instead of another beneficiary designation on the happening of one or more events, including survival of the decedent or failure to survive the decedent, whether an event is expressed in condition-precedent, condition-subsequent, or any other form.

(b) “Beneficiary” means the beneficiary of a beneficiary designation under which the beneficiary must survive the decedent and includes:

(i) a class member if the beneficiary designation is in the form of a class gift; and

(ii) an individual or class member who was deceased at the time the beneficiary designation was executed as well as an individual or class member who was then living but who failed to survive the decedent, but excludes a joint tenant of a joint tenancy with the right of survivorship and a party to a joint and survivorship account.

(c) “Beneficiary designation” includes an alternative beneficiary designation and a beneficiary designation in the form of a class gift.

(d) “Class member” includes an individual who fails to survive the decedent but who would have taken under a beneficiary designation in the form of a class gift had the individual survived the decedent.

(e) “*Descendant of a grandparent*”, as used in subsection (2), means an individual who qualifies as a descendant of a grandparent of the decedent under the:

(i) rules of construction applicable to a class gift created in the decedent’s beneficiary designation if the beneficiary designation is in the form of a class gift; or

(ii) rules for intestate succession if the beneficiary designation is not in the form of a class gift.

(f) “*Descendants*”, as used in the phrase “surviving descendants” of a deceased beneficiary or class member in subsections (2)(a) and (2)(b), mean the descendants of a deceased beneficiary or class member who would take under a class gift created in the beneficiary designation.

(e)(g) “Stepchild” means a child of the decedent’s surviving, deceased, or former spouse but not a child of the decedent.

~~(f)(h) “Surviving beneficiary” or “surviving descendant” means a beneficiary or a descendant~~ “Surviving” in the phrase or “surviving beneficiaries” or “surviving descendants”, means beneficiaries or descendants who neither predeceased the decedent nor ~~is considered~~ *are deemed* to have predeceased the decedent under 72-2-712.

(2) If a beneficiary fails to survive the decedent and is a grandparent, a descendant of a grandparent, or a stepchild of the decedent, the following provisions apply:

(a) Except as provided in subsection (2)(d), if the beneficiary designation is not in the form of a class gift and the deceased beneficiary leaves surviving descendants, a substitute gift is created in the beneficiary’s surviving descendants. They take by representation the property to which the beneficiary would have been entitled had the beneficiary survived the decedent.

(b) Except as provided in subsection (2)(d), if the beneficiary designation is in the form of a class gift, other than a beneficiary designation to “issue”, “descendants”, “heirs of the body”, “heirs”, “next of kin”, “relatives”, or

“family” or a class described by language of similar import, a substitute gift is created in the surviving descendants of any deceased beneficiary. The property to which the beneficiaries would have been entitled had all of them survived the decedent passes to the surviving beneficiaries and the surviving descendants of the deceased beneficiaries. Each surviving beneficiary takes the share to which the surviving beneficiary would have been entitled had the deceased beneficiaries survived the decedent. Each deceased beneficiary’s surviving descendants who are substituted for the deceased beneficiary take by representation the share to which the deceased beneficiary would have been entitled had the deceased beneficiary survived the decedent. For purposes of this subsection (b), “deceased beneficiary” means a class member who failed to survive the decedent and left one or more surviving descendants.

(c) For the purposes of 72-2-711, words of survivorship, such as in a beneficiary designation to an individual “if the individual survives me” or in a beneficiary designation to “my surviving children”, are not, in the absence of additional evidence, a sufficient indication of an intent contrary to the application of this section.

(d) If a governing instrument creates an alternative beneficiary designation with respect to a beneficiary designation for which a substitute gift is created by subsection (2)(a) or (2)(b), the substitute gift is superseded by the alternative beneficiary designation ~~only if an expressly designated beneficiary of the alternative beneficiary designation is entitled to take: if:~~

(i) the alternative beneficiary designation is in the form of a class gift and one or more members of the class is entitled to take; or

(ii) the alternative beneficiary designation is not in the form of a class gift and the expressly designated beneficiary of the alternative beneficiary designation is entitled to take.

(3) If, under subsection (2), substitute gifts are created and not superseded with respect to more than one beneficiary designation and the beneficiary designations are alternative beneficiary designations, one to the other, the determination of which of the substitute gifts takes effect is resolved as follows:

(a) Except as provided in subsection (3)(b), the property passes under the primary substitute gift.

(b) If there is a younger-generation beneficiary designation, the property passes under the younger-generation substitute gift and not under the primary substitute gift.

(c) As used in this subsection (3), the following definitions apply:

(i) “Primary beneficiary designation” means the beneficiary designation that would have taken effect had all the deceased beneficiaries of the alternative beneficiary designations who left surviving descendants survived the decedent.

(ii) “Primary substitute gift” means the substitute gift created with respect to the primary beneficiary designation.

(iii) “Younger-generation beneficiary designation” means a beneficiary designation that:

(A) is to a descendant of a beneficiary of the primary beneficiary designation;

(B) is an alternative beneficiary designation with respect to the primary beneficiary designation;

(C) is a beneficiary designation for which a substitute gift is created; and

(D) would have taken effect had all the deceased beneficiaries who left surviving descendants survived the decedent except the deceased beneficiary or beneficiaries of the primary beneficiary designation.

(iv) “Younger-generation substitute gift” means the substitute gift created with respect to the younger-generation beneficiary designation.

(4) (a) A payor is protected from liability in making payments under the terms of the beneficiary designation until the payor has received written notice of a claim to a substitute gift under this section. Payment made before the receipt of written notice of a claim to a substitute gift under this section discharges the payor, but not the recipient, from all claims for the amounts paid. A payor is liable for a payment made after the payor has received written notice of the claim. A recipient is liable for a payment received, whether or not written notice of the claim is given.

(b) The written notice of the claim must be mailed to the payor's main office or home by certified mail, return receipt requested, or served upon the payor in the same manner as a summons in a civil action. Upon receipt of written notice of the claim, a payor may pay any amount owed by it to the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. The court shall hold the funds and, upon its determination under this section, shall order disbursement in accordance with the determination. Payment made to the court discharges the payor from all claims for the amounts paid.

(5) (a) A person who purchases property for value and without notice or who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation is neither obligated under this section to return the payment, item of property, or benefit nor liable under this section for the amount of the payment or the value of the item of property or benefit. However, a person who, not for value, receives a payment, item of property, or other benefit to which the person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who is entitled to it under this section.

(b) If this section or any part of this section is preempted by federal law with respect to a payment, an item of property, or any other benefit covered by this section, a person who, not for value, receives the payment, item of property, or other benefit to which the person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who would have been entitled to it were this section or part of this section not preempted."

Section 34. Section 72-2-717, MCA, is amended to read:

"72-2-717. Survivorship with respect to future interests under terms of trust – substitute takers. (1) As used in this section, the following definitions apply:

(a) "Alternative future interest" means an expressly created future interest that may take effect in possession or enjoyment instead of another future interest on the happening of one or more events, including survival of an event or failure to survive an event, whether an event is expressed in condition-precedent, condition-subsequent, or any other form. A residuary clause in a will does not create an alternative future interest with respect to a future interest created in a nonresiduary devise in the will, whether or not the will specifically provides that lapsed or failed devises are to pass under the residuary clause.

(b) "Beneficiary" means the beneficiary of a future interest and includes a class member if the future interest is in the form of a class gift.

(c) “Class member” includes an individual who fails to survive the distribution date but who would have taken under a future interest in the form of a class gift had the individual survived the distribution date.

(d) *“Descendants”, in the phrase “surviving descendants” of a deceased beneficiary or class member in subsections (2)(a) and (2)(b), mean the descendants of a deceased beneficiary or class member who would take under a class gift created in the trust.*

(d)(e) “Distribution date” with respect to a future interest means the time when the future interest is to take effect in possession or enjoyment. The distribution date need not occur at the beginning or end of a calendar day, but may occur at a time during the course of a day.

(e)(f) “Future interest” includes an alternative future interest and a future interest in the form of a class gift.

(f)(g) “Future interest under the terms of a trust” means a future interest that was created by a transfer creating a trust or to an existing trust or by an exercise of a power of appointment to an existing trust that directs the continuance of an existing trust, designates a beneficiary of an existing trust, or creates a trust.

(g)(h) ~~“Surviving beneficiary” or “surviving descendant” means a beneficiary or a descendant~~ *“Surviving” in the phrase “surviving beneficiaries” or “surviving descendants” means beneficiaries or descendants who neither predeceased the distribution date nor is considered are deemed to have predeceased the distribution date under 72-2-712.*

(2) A future interest under the terms of a trust is contingent on the beneficiary surviving the distribution date. If a beneficiary of a future interest under the terms of a trust fails to survive the distribution date, the following provisions apply:

(a) Except as provided in subsection (2)(d), if the future interest is not in the form of a class gift and the deceased beneficiary leaves surviving descendants, a substitute gift is created in the beneficiary’s surviving descendants. They take by representation the property to which the beneficiary would have been entitled had the beneficiary survived the distribution date.

(b) Except as provided in subsection (2)(d), if the future interest is in the form of a class gift, other than a future interest to “issue”, “descendants”, “heirs of the body”, “heirs”, “next of kin”, “relatives”, or “family” or a class described by language of similar import, a substitute gift is created in the surviving descendants of any deceased beneficiary. The property to which the beneficiaries would have been entitled had all of them survived the distribution date passes to the surviving beneficiaries and the surviving descendants of the deceased beneficiaries. Each surviving beneficiary takes the share to which the surviving beneficiary would have been entitled had the deceased beneficiaries survived the distribution date. Each deceased beneficiary’s surviving descendants who are substituted for the deceased beneficiary take by representation the share to which the deceased beneficiary would have been entitled had the deceased beneficiary survived the distribution date. For purposes of this subsection (2), “deceased beneficiary” means a class member who failed to survive the distribution date and left one or more surviving descendants.

(c) For the purposes of 72-2-711, words of survivorship attached to a future interest are not, in the absence of additional evidence, a sufficient indication of an intent contrary to the application of this section. Words of survivorship include words of survivorship that relate to the distribution date or to an earlier or an unspecified time, whether those words of survivorship are expressed in condition-precedent, condition-subsequent, or any other form.

(d) If a governing instrument creates an alternative future interest with respect to a future interest for which a substitute gift is created by subsection (2)(a) or (2)(b), the substitute gift is superseded by the alternative future interest *only if an if*:

(i) *the alternative future interest is in the form of a class gift and one or more members of the class is entitled to take in possession or enjoyment; or*

(ii) *the alternative future interest is not in the form of a class gift and the expressly designated beneficiary of the alternative future interest is entitled to take in possession or enjoyment.*

(3) If, under subsection (2), substitute gifts are created and not superseded with respect to more than one future interest and the future interests are alternative future interests, one to the other, the determination of which of the substitute gifts takes effect is resolved as follows:

(a) Except as provided in subsection (3)(b), the property passes under the primary substitute gift.

(b) If there is a younger-generation future interest, the property passes under the younger-generation substitute gift and not under the primary substitute gift.

(c) As used in this subsection (3), the following definitions apply:

(i) "Primary future interest" means the future interest that would have taken effect had all the deceased beneficiaries of the alternative future interests who left surviving descendants survived the distribution date.

(ii) "Primary substitute gift" means the substitute gift created with respect to the primary future interest.

(iii) "Younger-generation future interest" means a future interest that:

(A) is to a descendant of a beneficiary of the primary future interest;

(B) is an alternative future interest with respect to the primary future interest;

(C) is a future interest for which a substitute gift is created; and

(D) would have taken effect had all the deceased beneficiaries who left surviving descendants survived the distribution date except the deceased beneficiary or beneficiaries of the primary future interest.

(iv) "Younger-generation substitute gift" means the substitute gift created with respect to the younger-generation future interest.

(4) Except as provided in subsection (5), if, after the application of subsections (2) and (3), there is no surviving taker, the property passes in the following order:

(a) if the trust was created in a nonresiduary devise in the transferor's will or in a codicil to the transferor's will, the property passes under the residuary clause in the transferor's will. For purposes of this section, the residuary clause is treated as creating a future interest under the terms of a trust.

(b) if no taker is produced by the application of subsection (4)(a), the property passes to the transferor's heirs under 72-2-721.

(5) If, after the application of subsections (2) and (3), there is no surviving taker and if the future interest was created by the exercise of a power of appointment:

(a) the property passes under the donor's gift-in-default clause, if any, which clause is treated as creating a future interest under the terms of a trust; and

(b) if no taker is produced by the application of subsection (5)(a), the property passes as provided in subsection (4). For purposes of subsection (4), "transferor" means the donor if the power was a nongeneral power and means the donee if the power was a general power."

Section 35. Section 72-2-813, MCA, is amended to read:

“72-2-813. Effect of homicide on intestate succession, wills, trusts, joint assets, life insurance, and beneficiary designations. (1) For purposes of this section, the following definitions apply:

(a) “Disposition or appointment of property” includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.

(b) “Governing instrument” means a governing instrument executed by the decedent.

(c) “Revocable”, with respect to a disposition, appointment, provision, or nomination, means one under which the decedent, at the time of or immediately before death, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the killer, whether or not the decedent was then empowered to designate the decedent in place of the decedent’s killer and whether or not the decedent then had capacity to exercise the power.

(2) An individual who feloniously and intentionally kills the decedent forfeits all benefits under this chapter with respect to the decedent’s estate, including an intestate share, an elective share, an omitted spouse’s or child’s share, a homestead allowance, exempt property, and a family allowance. If the decedent died intestate, the decedent’s intestate estate passes as if the killer disclaimed the killer’s intestate share.

(3) The felonious and intentional killing of the decedent:

(a) revokes any revocable:

(i) disposition or appointment of property made by the decedent to the killer in a governing instrument;

(ii) provision in a governing instrument conferring a general or nongeneral power of appointment on the killer; and

(iii) nomination of the killer in a governing instrument, nominating or appointing the killer to serve in any fiduciary or representative capacity, including a personal representative, executor, trustee, or agent; and

(b) severs the interests of the decedent and killer in property held by them at the time of the killing as joint tenants with the right of survivorship and transforms the interests of the decedent and killer into tenancies in common.

(4) A severance under subsection (3)(b) does not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the killer unless a writing declaring the severance has been noted, registered, filed, or recorded in records appropriate to the kind and location of the property, which records are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership.

(5) Provisions of a governing instrument are given effect as if the killer disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the killer predeceased the decedent.

(6) A wrongful acquisition of property or interest by a killer not covered by this section must be treated in accordance with the principle that a killer cannot profit from the killer’s wrong.

(7) After all right to appeal has been exhausted, a judgment of conviction establishing criminal accountability for the felonious and intentional killing of the decedent conclusively establishes the convicted individual as the decedent’s killer for purposes of this section. In the absence of a conviction, the court, upon the petition of an interested person, shall determine whether, under the preponderance of evidence standard, the individual would be found criminally accountable for the felonious and intentional killing of the decedent. If the court determines that under that standard the individual would be found

criminally accountable for the felonious and intentional killing of the decedent, the determination conclusively establishes that individual as the decedent's killer for purposes of this section.

(8) (a) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by an intentional and felonious killing, or for having taken any other action in good faith reliance on the validity of the governing instrument, upon request and satisfactory proof of the decedent's death, before the payor or other third party received written notice of a claimed forfeiture or revocation under this section. A payor or other third party does not have a duty or obligation to make any determination as to whether the decedent was a victim of a homicide or to seek any evidence with respect to a homicide even if the circumstances of the decedent's death are suspicious or questionable as to the beneficiary's participation in a homicide. A payor or other third party is only liable for actions taken 2 or more business days after the actual receipt by the payor or other third party of written notice. The payor or other third party may be liable for actions taken pursuant to the governing instrument only if the form of the service is that described in subsection (8)(b).

(b) The written notice must indicate the name of the decedent, the name of the person asserting an interest, the nature of the payment or item of property or other benefit, and a statement that a claim of forfeiture or revocation is being made under this section. Written notice of a claimed forfeiture or revocation under subsection (8)(a) must be mailed to the payor's or other third party's main office or home by certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Notice to a sales representative of the payor or other third party does not constitute notice to the payor or other third party. Upon receipt of written notice of a claimed forfeiture or revocation under this section, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. In addition to the actions available under this section, the payor or other third party may take any action authorized by law or the governing instrument. If probate proceedings have not been commenced, the payor or other third party shall file with the court a copy of the written notice received by the payor or other third party, with the payment of funds or transfer or deposit of property. The court may not charge a filing fee to the payor or other third party for the payment to the court of amounts owed or transferred to or deposited with the court or any item of property. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement in accordance with the determination. A filing fee, if any, may be charged upon disbursement either to the recipient or against the funds or property on deposit with the court, in the discretion of the court. Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

(9) (a) A bona fide purchaser who purchases property or who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation is neither obligated under this section to return the payment, item of property, or benefit nor liable under this section for the amount of the payment or the value of the item of property or benefit. However, a person who, not for value, receives a payment, item of property, or other

benefit to which the person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who is entitled to it under this section.

(b) If this section or any part of this section is preempted by federal law; ~~other than the federal Employee Retirement Income Security Act of 1974, as amended;~~ with respect to a payment, an item of property, or any other benefit covered by this section, a person who, not for value, receives the payment, item of property, or other benefit to which the person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who would have been entitled to it were this section or part of this section not preempted.

(10) For the purposes of this section, a felonious and intentional killing includes a deliberate homicide as defined in 45-5-102 and a mitigated deliberate homicide as defined in 45-5-103.”

Section 36. Section 72-2-814, MCA, is amended to read:

“72-2-814. Revocation of probate and nonprobate transfers by divorce – no revocation by other changes of circumstances. (1) As used in this section, the following definitions apply:

(a) “Disposition or appointment of property” includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.

(b) “Divorce or annulment” means any divorce, annulment, or dissolution or declaration of invalidity of a marriage that would exclude the spouse as a surviving spouse within the meaning of 72-2-812. A decree of separation that does not terminate the status of husband and wife is not a divorce for purposes of this section.

(c) “Divorced individual” includes an individual whose marriage has been annulled.

(d) “Governing instrument” means a governing instrument executed by the divorced individual before the divorce or annulment of the individual’s marriage to the individual’s former spouse.

(e) “Relative of the divorced individual’s former spouse” means an individual who is related to the divorced individual’s former spouse by blood, adoption, or affinity and who, after the divorce or annulment, is not related to the divorced individual by blood, adoption, or affinity.

(f) “Revocable”, with respect to a disposition, appointment, provision, or nomination, means one under which the divorced individual, at the time of the divorce or annulment, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the individual’s former spouse or former spouse’s relative, whether or not the divorced individual was then empowered to designate the divorced individual in place of the individual’s former spouse or in place of the former spouse’s relative and whether or not the divorced individual then had the capacity to exercise the power.

(2) Except as to a retirement system established in Title 19 or as provided by the express terms of a governing instrument, a court order, or a contract relating to the division of the marital estate made between the divorced individuals before or after the marriage, divorce, or annulment, the divorce or annulment of a marriage:

(a) revokes any revocable:

(i) disposition or appointment of property made by a divorced individual to the individual’s former spouse in a governing instrument and any disposition

or appointment created by law or in a governing instrument to a relative of the divorced individual's former spouse;

(ii) provision in a governing instrument conferring a general or nongeneral power of appointment on the divorced individual's former spouse or on a relative of the divorced individual's former spouse; and

(iii) nomination in a governing instrument that nominates a divorced individual's former spouse or a relative of the divorced individual's former spouse to serve in any fiduciary or representative capacity, including a personal representative, executor, trustee, conservator, agent, or guardian; and

(b) severs the interests of the former spouses in property held by them at the time of the divorce or annulment as joint tenants with the right of survivorship and transforms the interests of the former spouses into tenancies in common.

(3) A severance under subsection (2)(b) does not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the survivor of the former spouses unless a writing declaring the severance has been noted, registered, filed, or recorded in records appropriate to the kind and location of the property, which records are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership.

(4) Provisions of a governing instrument are given effect as if the former spouse and relatives of the former spouse disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the former spouse and relatives of the former spouse died immediately before the divorce or annulment.

(5) Provisions revoked solely by this section are revived by the divorced individual's remarriage to the former spouse or by a nullification of the divorce or annulment.

(6) No change of circumstances other than as described in this section and in 72-2-813 effects a revocation.

(7) (a) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by a divorce, annulment, or remarriage, or for having taken any other action in good faith reliance on the validity of the governing instrument, before the payor or other third party received written notice of the divorce, annulment, or remarriage. A payor or other third party does not have a duty or obligation to inquire as to the continued marital relationship between the decedent and a beneficiary or to seek any evidence with respect to a marital relationship. A payor or other third party is only liable for actions taken 2 or more business days after the actual receipt by the payor or other third party of written notice. The payor or other third party may be liable for actions taken pursuant to the governing instrument only if the form of service is that described in subsection (7)(b).

(b) The written notice must indicate the name of the decedent, the name of the person asserting an interest, the nature of the payment or item of property or other benefit, and a statement that a dissolution, annulment, or remarriage of the decedent and the designated beneficiary occurred. Written notice of the divorce, annulment, or remarriage under subsection (7)(a) must be mailed to the payor's or other third party's main office or home by *registered or certified mail*, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of the divorce, annulment, or remarriage, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to

the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. In addition to the actions available under this section, the payor or other third party may take any action authorized by law or the governing instrument. If probate proceedings have not been commenced, the payor or other third party shall file with the court a copy of the written notice received by the payor or other third party, with the payment of funds or transfer or deposit of property. The court may not charge a filing fee to the payor or other third party for the payment to the court of amounts owed or transferred to or deposited with the court or any item of property. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement or transfer in accordance with the determination. A filing fee, if any, may, in the discretion of the court, be charged upon disbursement either to the recipient or against the funds or property on deposit with the court. Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

(8) (a) A bona fide purchaser who purchases property from a former spouse, relative of a former spouse, or any other person or who receives from a former spouse, relative of a former spouse, or any other person *for value and without notice* a payment or other item of property in partial or full satisfaction of a legally enforceable obligation is neither obligated under this section to return the payment, item of property, or benefit nor liable under this section for the amount of the payment or the value of the item of property or benefit. However, a former spouse, relative of a former spouse, or other person who, not for value, received a payment, item of property, or other benefit to which that person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who is entitled to it under this section.

(b) If this section or any part of this section is preempted by federal law; ~~other than the federal Employee Retirement Income Security Act of 1974, as amended;~~ with respect to a payment, an item of property, or any other benefit covered by this section, a former spouse, relative of the former spouse, or any other person who, not for value, received a payment, item of property, or other benefit to which that person is not entitled under this section is obligated to return that payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who would have been entitled to it were this section or part of this section not preempted.

(9) The provisions of this section apply to testate and intestate estates, and in the event of a conflict between the provisions of this section and those provided in chapters 1 through 5 and chapter 16, part 6, of this title, the provisions of this section control. This subsection does not apply if a divorced individual designates a former spouse as personal representative of the estate subsequent to the divorce."

Section 37. Reformation to correct mistakes. The court may reform the terms of a governing instrument, even if unambiguous, to conform the terms to the transferor's intention if it is proved by clear and convincing evidence what the transferor's intention was and that the terms of the governing instrument were affected by a mistake of fact or law, whether in expression or inducement.

Section 38. Modification to achieve transferor's tax objectives. To achieve the transferor's tax objectives, the court may modify the terms of

a governing instrument in a manner that is not contrary to the transferor's probable intention. The court may provide that the modification has retroactive effect.

Section 39. Short title. [Sections 39 through 55] may be cited as the "Uniform Disclaimer of Property Interests Act".

Section 40. Definitions. As used in [sections 39 through 55] the following definitions apply:

(1) "Disclaimant" means the person to whom a disclaimed interest or power would have passed had the disclaimer not been made.

(2) "Disclaimed interest" means the interest that would have passed to the disclaimant had the disclaimer not been made.

(3) "Disclaimer" means the refusal to accept an interest in or power over property.

(4) "Fiduciary" means a personal representative, trustee, agent acting under a power of attorney, or other person authorized to act as a fiduciary with respect to the property of another person.

(5) "Jointly held property" means property held in the name of two or more persons under an arrangement in which all holders have concurrent interests and under which the last surviving holder is entitled to the whole of the property.

(6) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.

(7) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, recognized by federal law or formally acknowledged by a state.

(8) "Trust" means:

(a) an express trust, charitable or noncharitable, with additions thereto, whenever and however created; and

(b) a trust created pursuant to a statute, judgment, or decree which requires the trust to be administered in the manner of an express trust.

Section 41. Scope. [Sections 39 through 55] applies to disclaimers of any interest in or power over property, whenever created.

Section 42. [Sections 39 through 55] supplemented by other law.

(1) Unless displaced by a provision of [sections 39 through 55], the principles of law and equity supplement [sections 39 through 55].

(2) [Sections 39 through 55] do not limit any right of a person to waive, release, disclaim, or renounce an interest in or power over property under a law other than [sections 39 through 55].

Section 43. Power to disclaim – general requirements – when revocable. (1) A person may disclaim, in whole or part, any interest in or power over property, including a power of appointment. A person may disclaim the interest or power even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim.

(2) Except to the extent a fiduciary's right to disclaim is expressly restricted or limited by another statute of this state or by the instrument creating the fiduciary relationship, a fiduciary may disclaim, in whole or part, any interest in or power over property, including a power of appointment, whether acting in a personal or representative capacity. A fiduciary may disclaim the interest or power even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim or an

instrument other than the instrument that created the fiduciary relationship imposed a restriction or limitation on the right to disclaim.

(3) To be effective, a disclaimer must be in a writing or other record, declare the disclaimer, describe the interest or power disclaimed, be signed by the person making the disclaimer, and be delivered or filed in the manner provided in [section 50]. In this subsection:

(a) “record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

(b) “signed” means, with present intent to authenticate or adopt a record, to:

(i) execute or adopt a tangible symbol; or

(ii) attach to or logically associate with the record an electronic sound, symbol, or process.

(4) A partial disclaimer may be expressed as a fraction, percentage, monetary amount, term of years, limitation of a power, or any other interest or estate in the property.

(5) A disclaimer becomes irrevocable when it is delivered or filed pursuant to [section 50] or when it becomes effective as provided in [sections 44 through 49], whichever occurs later.

(6) A disclaimer made under [sections 39 through 55] is not a transfer, assignment, or release.

Section 44. Disclaimer of interest in property. (1) In this section:

(a) “Future interest” means an interest that takes effect in possession or enjoyment, if at all, later than the time of its creation.

(b) “Time of distribution” means the time when a disclaimed interest would have taken effect in possession or enjoyment.

(2) Except for a disclaimer governed by [section 45 or 46], the following rules apply to a disclaimer of an interest in property:

(a) The disclaimer takes effect as of the time the instrument creating the interest becomes irrevocable, or, if the interest arose under the law of intestate succession, as of the time of the intestate’s death.

(b) The disclaimed interest passes according to any provision in the instrument creating the interest providing for the disposition of the interest, should it be disclaimed, or of disclaimed interests in general.

(c) If the instrument does not contain a provision described in subsection (2)(b), the following rules apply:

(i) If the disclaimant is not an individual, the disclaimed interest passes as if the disclaimant did not exist.

(ii) If the disclaimant is an individual, except as otherwise provided in subsections (2)(c)(iii) and (2)(c)(iv), the disclaimed interest passes as if the disclaimant had died immediately before the time of distribution.

(iii) If by law or under the instrument, the descendants of the disclaimant would share in the disclaimed interest by any method of representation had the disclaimant died before the time of distribution, the disclaimed interest passes only to the descendants of the disclaimant who survive the time of distribution.

(iv) If the disclaimed interest would pass to the disclaimant’s estate had the disclaimant died before the time of distribution, the disclaimed interest instead passes by representation to the descendants of the disclaimant who survive the time of distribution. If no descendant of the disclaimant survives the time of distribution, the disclaimed interest passes to those persons, including the state but excluding the disclaimant, and in such shares as would succeed to the transferor’s intestate estate under the intestate succession law of the transferor’s domicile had the transferor died at the time of distribution.

However, if the transferor's surviving spouse is living but is remarried at the time of distribution, the transferor is deemed to have died unmarried at the time of distribution.

(d) Upon the disclaimer of a preceding interest, a future interest held by a person other than the disclaimant takes effect as if the disclaimant had died or ceased to exist immediately before the time of distribution, but a future interest held by the disclaimant is not accelerated in possession or enjoyment.

Section 45. Disclaimer of rights of survivorship in jointly held property. (1) Upon the death of a holder of jointly held property, a surviving holder may disclaim, in whole or part, the greater of:

(a) a fractional share of the property determined by dividing the number one by the number of joint holders alive immediately before the death of the holder to whose death the disclaimer relates; or

(b) all of the property except that part of the value of the entire interest attributable to the contribution furnished by the disclaimant.

(2) A disclaimer under subsection (1) takes effect as of the death of the holder of jointly held property to whose death the disclaimer relates.

(3) An interest in jointly held property disclaimed by a surviving holder of the property passes as if the disclaimant predeceased the holder to whose death the disclaimer relates.

Section 46. Disclaimer of interest by trustee. If a trustee disclaims an interest in property that otherwise would have become trust property, the interest does not become trust property.

Section 47. Disclaimer of power of appointment or other power not held in fiduciary capacity. If a holder disclaims a power of appointment or other power not held in a fiduciary capacity, the following rules apply:

(1) If the holder has not exercised the power, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable.

(2) If the holder has exercised the power and the disclaimer is of a power other than a presently exercisable general power of appointment, the disclaimer takes effect immediately after the last exercise of the power.

(3) The instrument creating the power is construed as if the power expired when the disclaimer became effective.

Section 48. Disclaimer by appointee, object, or taker in default of exercise of power of appointment. (1) A disclaimer of an interest in property by an appointee of a power of appointment takes effect as of the time the instrument by which the holder exercises the power becomes irrevocable.

(2) A disclaimer of an interest in property by an object or taker in default of an exercise of a power of appointment takes effect as of the time the instrument creating the power becomes irrevocable.

Section 49. Disclaimer of power held in fiduciary capacity. (1) If a fiduciary disclaims a power held in a fiduciary capacity which has not been exercised, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable.

(2) If a fiduciary disclaims a power held in a fiduciary capacity which has been exercised, the disclaimer takes effect immediately after the last exercise of the power.

(3) A disclaimer under this section is effective as to another fiduciary if the disclaimer so provides and the fiduciary disclaiming has the authority to bind the estate, trust, or other person for whom the fiduciary is acting.

Section 50. Delivery or filing. (1) In this section, "beneficiary designation" means an instrument, other than an instrument creating a trust, naming the beneficiary of:

(a) an annuity or insurance policy;

- (b) an account with a designation for payment on death;
- (c) a security registered in beneficiary form;
- (d) a pension, profit-sharing, retirement, or other employment-related benefit plan; or

- (e) any other nonprobate transfer at death.

(2) Subject to subsections (3) through (12), delivery of a disclaimer may be effected by personal delivery, first-class mail, or any other method likely to result in its receipt.

(3) In the case of an interest created under the law of intestate succession or an interest created by will, other than an interest in a testamentary trust:

- (a) a disclaimer must be delivered to the personal representative of the decedent's estate; or

- (b) if no personal representative is then serving, it must be filed with a court having jurisdiction to appoint the personal representative.

(4) In the case of an interest in a testamentary trust:

- (a) a disclaimer must be delivered to the trustee then serving, or if no trustee is then serving, to the personal representative of the decedent's estate; or

- (b) if no personal representative is then serving, it must be filed with a court having jurisdiction to enforce the trust.

(5) In the case of an interest in an inter vivos trust:

- (a) a disclaimer must be delivered to the trustee then serving;

- (b) if no trustee is then serving, it must be filed with a court having jurisdiction to enforce the trust; or

- (c) if the disclaimer is made before the time the instrument creating the trust becomes irrevocable, it must be delivered to the settlor of a revocable trust or the transferor of the interest.

(6) In the case of an interest created by a beneficiary designation which is disclaimed before the designation becomes irrevocable, the disclaimer must be delivered to the person making the beneficiary designation.

(7) In the case of an interest created by a beneficiary designation which is disclaimed after the designation becomes irrevocable:

- (a) the disclaimer of an interest in personal property must be delivered to the person obligated to distribute the interest; and

- (b) the disclaimer of an interest in real property must be recorded in the office of the county recorder of the county where the real property that is the subject of the disclaimer is located.

(8) In the case of a disclaimer by a surviving holder of jointly held property, the disclaimer must be delivered to the person to whom the disclaimed interest passes.

(9) In the case of a disclaimer by an object or taker in default of exercise of a power of appointment at any time after the power was created:

- (a) the disclaimer must be delivered to the holder of the power or to the fiduciary acting under the instrument that created the power; or

- (b) if no fiduciary is then serving, it must be filed with a court having authority to appoint the fiduciary.

(10) In the case of a disclaimer by an appointee of a nonfiduciary power of appointment:

- (a) the disclaimer must be delivered to the holder, the personal representative of the holder's estate or to the fiduciary under the instrument that created the power; or

- (b) if no fiduciary is then serving, it must be filed with a court having authority to appoint the fiduciary.

(11) In the case of a disclaimer by a fiduciary of a power over a trust or estate, the disclaimer must be delivered as provided in subsection (3), (4), or (5), as if the power disclaimed were an interest in property.

(12) In the case of a disclaimer of a power by an agent, the disclaimer must be delivered to the principal or the principal's representative.

Section 51. When disclaimer barred or limited. (1) A disclaimer is barred by a written waiver of the right to disclaim.

(2) A disclaimer of an interest in property is barred if any of the following events occur before the disclaimer becomes effective:

(a) the disclaimant accepts the interest sought to be disclaimed;

(b) the disclaimant voluntarily assigns, conveys, encumbers, pledges, or transfers the interest sought to be disclaimed or contracts to do so; or

(c) a judicial sale of the interest sought to be disclaimed occurs.

(3) A disclaimer, in whole or part, of the future exercise of a power held in a fiduciary capacity is not barred by its previous exercise.

(4) A disclaimer, in whole or part, of the future exercise of a power not held in a fiduciary capacity is not barred by its previous exercise unless the power is exercisable in favor of the disclaimant.

(5) A disclaimer is barred or limited if so provided by law other than [sections 39 through 55].

(6) A disclaimer of a power over property which is barred by this section is ineffective. A disclaimer of an interest in property which is barred by this section takes effect as a transfer of the interest disclaimed to the persons who would have taken the interest under [sections 39 through 55] had the disclaimer not been barred.

Section 52. Tax qualified disclaimer. Notwithstanding any other provision of [sections 39 through 55], if as a result of a disclaimer or transfer the disclaimed or transferred interest is treated pursuant to the provisions of Title 26 of the United States Code, as now or hereafter amended, or any successor statute thereto, and the regulations promulgated thereunder, as never having been transferred to the disclaimant, then the disclaimer or transfer is effective as a disclaimer under [sections 39 through 55].

Section 53. Recording of disclaimer. If an instrument transferring an interest in or power over property subject to a disclaimer is required or permitted by law to be filed, recorded, or registered, the disclaimer may be so filed, recorded, or registered. Except as otherwise provided in [section 50(7)(b)], failure to file, record, or register the disclaimer does not affect its validity as between the disclaimant and persons to whom the property interest or power passes by reason of the disclaimer.

Section 54. Application to existing relationships. Except as otherwise provided in [section 51], an interest in or power over property existing on [the effective date of this act] as to which the time for delivering or filing a disclaimer under law superseded by [sections 39 through 55] has not expired may be disclaimed after [the effective date of this act].

Section 55. Relation to electronic signatures in global and national commerce act. [Sections 39 through 55] modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001, et seq.) but does not modify, limit, or supersede section 101(c) of that act (15 U.S.C. 7001(c)) or authorize electronic delivery of any of the notices described in section 103(b) of that act (15 U.S.C. 7003(b)).

Section 56. Section 72-3-102, MCA, is amended to read:

"72-3-102. Necessity of order of probate of will. Except as provided in 72-3-1101, to be effective to prove the transfer of any property or to nominate

an executor, a will must be declared to be valid by an order of informal probate by the clerk or an adjudication of probate by the court.”

Section 57. Section 72-3-112, MCA, is amended to read:

“72-3-112. Venue for estate proceedings. (1) Venue for the first informal or formal testacy or appointment proceedings after a decedent’s death is:

(a) in the county where the decedent had the decedent’s domicile at the time of death; or

(b) if the decedent was not domiciled in this state, in any county where property of the decedent was located at the time of death.

(2) Venue for all subsequent proceedings within the exclusive jurisdiction of the court is in the place where the initial proceeding occurred unless the initial proceeding has been transferred as provided in 72-1-203 or subsection (3) of this section.

(3) If the first proceeding was informal, on application of an interested person and after notice to the proponent in the first proceeding, the court, upon finding that venue is elsewhere, may transfer the proceeding and the file to the other court.

(4) For the purpose of aiding determinations concerning location of assets which may be relevant in cases involving non-domiciliaries, a debt, other than one evidenced by investment or commercial paper or other instrument in favor of a non-domiciliary is located where the debtor resides or, if the debtor is a person other than an individual, at the place where it has its principal office. Commercial paper, investment paper, and other instruments are located where the instrument is. An interest in property held in trust is located where the trustee may be sued.”

Section 58. Section 72-3-122, MCA, is amended to read:

“72-3-122. Time limit on probate, testacy, and appointment proceedings -- exceptions. (1) No informal probate or appointment proceeding or formal testacy or appointment proceeding, other than a proceeding to probate a will previously probated at the testator’s domicile and appointment proceedings relating to an estate in which there has been a prior appointment, may be commenced more than 3 years after the decedent’s death, except:

(a) if a previous proceeding was dismissed because of doubt about the fact of the decedent’s death, appropriate probate, appointment, or testacy proceedings may be maintained at any time thereafter upon a finding that the decedent’s death occurred prior to the initiation of the previous proceeding and the applicant or petitioner has not delayed unduly in initiating the subsequent proceeding;

(b) appropriate probate, appointment, or testacy proceedings may be maintained in relation to the estate of an absent, disappeared, or missing person for whose estate a conservator has been appointed at any time within 3 years after the conservator becomes able to establish the death of the protected person;

(c) a proceeding to contest an informally probated will and to secure appointment of the person with legal priority for appointment in the event the contest is successful may be commenced within the later of 12 months from the informal probate or 3 years from the decedent’s death;

(d) an informal appointment or a formal testacy or appointment proceeding may be commenced ~~after the time period thereafter~~, if no proceedings concerning the succession or estate administration have occurred within the 3-year period after the decedent’s death, but the personal representative has no right to possess estate assets provided in 72-3-606 beyond that necessary to

confirm title to the property in the successors to the estate, and claims other than expenses of administration may not be presented against the estate; and

(e) a formal testacy proceeding may be commenced at any time after 3 years from the decedent's death for the purpose of establishing an instrument to direct or control the ownership of property passing or distributable after the decedent's death from one other than the decedent when the property is to be appointed by the terms of the decedent's will or is to pass or be distributed as a part of the decedent's estate or its transfer is otherwise to be controlled by the terms of the decedent's will.

(2) These limitations do not apply to proceedings to construe probated wills or determine heirs of an intestate.

(3) In cases under subsection (1)(a) or (1)(b), the date on which a testacy or appointment proceeding is properly commenced shall be deemed to be the date of the decedent's death for purposes of other limitations provisions of this code which relate to the date of death."

Section 59. Section 72-3-131, MCA, is amended to read:

"72-3-131. ~~Compromise of controversies~~ Effect of approval of agreements involving trusts, inalienable interests, or interests of third persons. (1) A compromise of any controversy as to admission to probate of any instrument offered for formal probate as the will of a decedent, the construction, validity, or effect of any governing instrument, the rights or interests in the estate of the decedent, of any successor, or the administration of the estate, if approved in a formal proceeding in the court for that purpose, is binding on all the parties to the proceeding, including those unborn, unascertained, or who could not be located.

(2) An approved compromise is binding even though it may affect a trust or an inalienable interest. A compromise does not impair the rights of creditors or of taxing authorities who are not parties to it."

Section 60. Section 72-3-201, MCA, is amended to read:

"72-3-201. Applications to be verified. Applications for informal probate or informal appointment must be directed to the clerk and verified by the applicant to be accurate and complete to the best of the applicant's knowledge and belief as to the information required by 72-3-202 through 72-3-205. *By verifying an application for informal probate or informal appointment, the applicant submits personally to the jurisdiction of the court in any proceeding for relief from fraud relating to the application, or for perjury, that may be instituted against the applicant.*"

Section 61. Section 72-3-202, MCA, is amended to read:

"72-3-202. Required contents of application. Every application for informal probate of a will or for informal appointment of a personal representative, other than a special, ancillary, or successor representative, must contain the following:

(1) a statement of the interest of the applicant;

(2) the name and date of death of the decedent, the decedent's age, and the county and state of the decedent's domicile at the time of death and the names and addresses of the spouse, children, heirs, and devisees and the ages of any who are minors so far as known or ascertainable with reasonable diligence by the applicant;

(3) if the decedent was not domiciled in the state at the time of death, a statement showing venue;

(4) a statement identifying and indicating the address of any personal representative of the decedent appointed in this state or elsewhere whose appointment has not been terminated;

(5) a statement indicating whether the applicant has received a demand for notice or is aware of any demand for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this state or elsewhere; and

(6) *that the time limit for informal probate or appointment as provided in this chapter has not expired either because 3 years or less have passed since the decedent's death, or, if more than 3 years from death have passed, circumstances as described by 72-3-122 have occurred authorizing tardy probate or appointment.*"

Section 62. Section 72-3-203, MCA, is amended to read:

"72-3-203. Probate and appointment under will – additional information required. (1) An application for informal probate of a will must state the following in addition to the statements required by 72-3-202:

(a) that the original of the decedent's last will is in the possession of the court or accompanies the application, that an authenticated copy of a will probated in another jurisdiction accompanies the application, or that an authenticated copy of a will filed without probate in another jurisdiction and proved, as provided in 72-3-220, accompanies the application;

(b) that the applicant to the best of the applicant's knowledge believes the will to have been validly executed;

(c) that after the exercise of reasonable diligence, the applicant is unaware of any instrument revoking the will and that the applicant believes that the instrument that is the subject of the application is the decedent's last will;

~~(d) that the time limit for informal probate, as provided in this chapter, has not expired either because 3 years or less have passed since the decedent's death or, if more than 3 years from death have passed, that circumstances as described by 72-3-122 authorizing tardy probate have occurred.~~

(2) An application for informal appointment of a personal representative to administer an estate under a will must describe the will by date of execution and state the time and place of probate or the pending application or petition for probate. The application for appointment must adopt the statements in the application or petition for probate and state the name, address, and priority for appointment of the person whose appointment is sought."

Section 63. Formal testacy proceedings – contested cases. In a contested case in which the proper execution of a will is at issue, the following rules apply:

(1) If the will is self-proved pursuant to 72-2-524, the will satisfies the requirements for execution without the testimony of any attesting witness, upon filing the will and the acknowledgment and affidavits annexed or attached to it, unless there is evidence of fraud or forgery affecting the acknowledgment or affidavit.

(2) If the will is witnessed pursuant to 72-2-522(1), but not self-proved, the testimony of at least one of the attesting witnesses is required to establish proper execution if the witness is within this state, competent, and able to testify. Proper execution may be established by other evidence, including an affidavit of an attesting witness. An attestation clause that is signed by the attesting witnesses raises a rebuttable presumption that the events recited in the clause occurred.

Section 64. Section 72-3-401, MCA, is amended to read:

"72-3-401. Supervised administration – nature and purpose – presumptive entitlement. (1) Supervised administration is a single in rem proceeding to secure complete administration and settlement of a decedent's estate under the continuing authority of the court, which extends until entry of an order approving distribution of the estate and discharging the personal

~~representative or other order terminating the proceeding; or other order terminating the proceeding. A supervised personal representative is responsible to the court, as well as to the interested parties, and is subject to directions concerning the estate made by the court on its own motion or on the motion of any interested party. Except as otherwise provided in this part, or as otherwise ordered by the court, a supervised personal representative has the same duties and powers as a personal representative who is not supervised.~~

~~(2) If a probate estate has not been closed within 3 years after the first appointment of a personal representative or administrator, any devisee under a will, beneficiary of a trust, or intestate heir of the decedent is entitled to petition for supervised administration under this section and is presumptively entitled to receive an order for supervised administration. The burden of proof to show cause why supervised administration should not be granted is on the personal representative or administrator."~~

Section 65. Section 72-3-404, MCA, is amended to read:

"72-3-404. Powers and duties of personal representative in supervised administration. (1) A supervised personal representative is responsible to the court, as well as to the interested parties, and is subject to directions concerning the estate made by the court on its own motion or on the motion of any interested party.

(2) Except as otherwise provided in this part or as otherwise ordered by the court, a supervised personal representative has the same duties and powers as a personal representative who is not supervised.

(3) Unless restricted by the court, a supervised personal representative has, without interim orders approving exercise of a power, all powers of personal representatives under this code, but the personal representative may not exercise the power to make any distribution of the estate without prior order of the court. Any other restriction on the power of a personal representative that may be ordered by the court must be endorsed on the personal representative's letters of appointment and unless so endorsed is ineffective as to persons dealing in good faith with the personal representative."

Section 66. Section 72-3-502, MCA, is amended to read:

"72-3-502. Priorities for appointment. Whether the proceedings are formal or informal, persons who are not disqualified have priority for appointment in the following order:

(1) the person with priority as determined by a probated will, including a person nominated by a power conferred in a will;

(2) the surviving spouse of the decedent who is a devisee of the decedent;

(3) the custodial parent of a minor decedent;

(4) other devisees of the decedent;

(5) the surviving spouse of the decedent;

(6) *the parent of an adult decedent who was survived by issue, none of whom is an adult;*

~~(6)(7)~~ other heirs of the decedent;

~~(7)(8)~~ public administrator;

~~(8)(9)~~ 45 days after the death of the decedent, any creditor."

Section 67. Section 72-3-504, MCA, is amended to read:

"72-3-504. Renunciation – nomination of other – two or more persons sharing priority. (1) A person entitled to letters under 72-3-502(2) through ~~(6)~~ (7) may nominate a qualified person to act as personal representative.

(2) Any person entitled to letters may renounce the person's right to nominate or to an appointment by appropriate writing filed with the court.

(3) When two or more persons share a priority, those of them who do not renounce shall concur in nominating another to act for them or in applying

for appointment. If they are unable to concur in nominating another to act for them or in applying for appointment, the court may appoint any qualified person.”

Section 68. Section 72-3-514, MCA, is amended to read:

“72-3-514. Demand for bond by interested person. (1) Any person apparently having an interest in the estate worth in excess of ~~\$1,000~~ *\$5,000* or any creditor having a claim in excess of ~~\$1,000~~ *\$5,000* may make a written demand that a personal representative give bond. The demand must be filed with the clerk and a copy mailed to the personal representative, if appointment and qualification have occurred. Upon filing of the demand, bond is required, but the requirement ceases if the person demanding bond ceases to be interested in the estate or if bond is excused as provided in 72-3-513 or 72-3-515.

(2) After the personal representative has received notice and until the filing of the bond or cessation of the requirement of bond, the personal representative shall refrain from exercising any powers of the personal representative’s office except as necessary to preserve the estate.

(3) Failure of the personal representative to meet a requirement of bond by giving suitable bond within 30 days after receipt of notice is cause for removal and appointment of a successor personal representative.”

Section 69. Section 72-3-607, MCA, is amended to read:

“72-3-607. Inventory – appraisal. (1) Within 9 months after appointment, a personal representative who is not a special administrator or a successor to another representative who has previously discharged this duty shall prepare an inventory of property owned by the decedent at the time of the decedent’s death, listing the inventory of property with reasonable detail and indicating for each listed item its fair market value as of the date of the decedent’s death and the type and amount of any encumbrance that may exist with reference to the item.

(2) The inventory must include a statement of the ~~full and true fair~~ *market* value of the decedent’s interest in every item listed in the inventory. The personal representative may ~~appoint one or more~~ *employ* a qualified and disinterested ~~persons appraiser~~ *person* to assist the personal representative in ascertaining the fair market value as of the date of the decedent’s death of ~~all assets included in the estate~~ *any asset the value of which may be subject to reasonable doubt*. Different persons may be employed to appraise different kinds of assets included in the estate. The names and addresses of any ~~appraisers~~ *appraiser* must be indicated on the inventory with the item or items appraised.

(3) The personal representative shall:

(a) send a copy of the inventory to ~~interested persons~~ *the following who request it: heirs, devisees, and creditors with allowed claims that have not been satisfied*; or

(b) file the original of the inventory with the court and send a copy of the inventory to interested persons who request it.”

Section 70. Section 72-3-611, MCA, is amended to read:

“72-3-611. No surcharge for authorized acts generally – limitation.

(1) A personal representative may not be surcharged for acts of administration or distribution if the conduct in question was authorized at the time. Subject to other obligations of administration and of this code, an informally probated will is authority to administer and distribute the estate according to its terms. Subject to the provisions of this code, an order of appointment of a personal representative, whether issued in informal or formal proceedings, is authority to distribute apparently intestate assets to the heirs of the decedent if, at the time of distribution, the personal representative is not aware of a pending

testacy proceeding, a proceeding to vacate an order entered in an earlier testacy proceeding, a formal proceeding questioning the personal representative's appointment or fitness to continue, or a supervised administration proceeding.

(2) This section does not affect the duty of the personal representative to administer and distribute the estate in accordance with the rights of claimants *whose claims have been allowed*, the surviving spouse, any minor and dependent children, and any pretermitted child of the decedent as described elsewhere in this code."

Section 71. Section 72-3-613, MCA, is amended to read:

"72-3-613. Transactions authorized for personal representative.

Except as restricted by this code or otherwise provided by the will or by an order in a formal proceeding and subject to the priorities stated in 72-3-901, a personal representative, acting reasonably for the benefit of the interested persons, may properly:

(1) retain assets owned by the decedent pending distribution or liquidation, including those in which the representative is personally interested or which are otherwise improper for trust investment;

(2) receive assets from fiduciaries or other sources;

(3) perform, compromise, or refuse performance of the decedent's contracts that continue as obligations of the estate, as the personal representative may determine under the circumstances. In performing enforceable contracts by the decedent to convey or lease land, the personal representative, among other possible courses of action, may:

(a) execute and deliver a deed of conveyance for cash payment of all sums remaining due on the purchaser's note for the sum remaining due secured by a mortgage or deed of trust on the land; or

(b) deliver a deed in escrow with directions that the proceeds, when paid in accordance with the escrow agreement, be paid to the successors of the decedent, as designated in the escrow agreement;

(4) satisfy written charitable pledges of the decedent irrespective of whether the pledges constituted binding obligations of the decedent or were properly presented as claims, if in the judgment of the personal representative the decedent would have wanted the pledges completed under the circumstances;

(5) if funds are not needed to meet debts and expenses currently payable and are not immediately distributable, deposit or invest liquid assets of the estate, including money received from the sale of other assets, in federally insured interest-bearing accounts, readily marketable secured loan arrangements, or other prudent investments that would be reasonable for use by trustees generally. If the personal representative is authorized to invest funds in United States obligations, the personal representative may invest in these obligations either directly or in the form of securities of or other interests in an open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64), as amended, if:

(a) the portfolio of the investment company or investment trust is limited to United States government obligations and repurchase agreements fully collateralized by United States government obligations; and

(b) the investment company or investment trust takes delivery of the collateral for any repurchase agreement, either directly or through an authorized custodian.

(6) acquire or dispose of an asset, including land in this or another state, for cash or on credit, at public or private sale and manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset;

(7) make ordinary or extraordinary repairs or alterations in buildings or other structures, demolish any improvements, raze existing or erect new party walls or buildings;

(8) subdivide, develop, or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries; adjust differences in valuation on exchange or partition by giving or receiving considerations; or dedicate easements to public use without consideration;

(9) enter for any purpose into a lease as lessor or lessee, with or without option to purchase or renew, for a term within or extending beyond the period of administration;

(10) enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

(11) ~~with the consent of the heirs or devisees or the court,~~ abandon property when in the opinion of the personal representative it is valueless or is so encumbered or is in condition that it is of no benefit to the estate;

(12) vote stocks or other securities in person or by general or limited proxy;

(13) pay calls, assessments, and other sums chargeable or accruing against or on account of securities, unless barred by the provisions relating to claims;

(14) hold a security in the name of a nominee or in other form without disclosure of the interest of the estate, but the personal representative is liable for any act of the nominee in connection with the security so held;

(15) insure the assets of the estate against damage, loss, and liability and the personal representative against liability as to third persons;

(16) borrow money with or without security to be repaid from the estate assets or otherwise and advance money for the protection of the estate;

(17) ~~with the consent of the heirs or devisees or the court,~~ effect a fair and reasonable compromise with any debtor or obligor or extend, renew, or in any manner modify the terms of any obligation owing to the estate. If the personal representative holds a mortgage, pledge, or other lien upon property of another person, the personal representative may, in lieu of foreclosure, accept a conveyance or transfer of encumbered assets from the owner thereof in satisfaction of the indebtedness secured by lien.

(18) pay taxes, assessments, compensation of the personal representative, and other expenses incident to the administration of the estate;

(19) sell or exercise stock subscription or conversion rights; consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;

(20) allocate items of income or expense to either estate income or principal, as permitted or provided by law;

(21) employ persons, including attorneys, auditors, investment advisors, or agents, even if they are associated with the personal representative, to advise or assist the personal representative in the performance of the personal representative's administrative duties; act without independent investigation upon their recommendations; and, instead of acting personally, employ one or more agents to perform any act of administration, whether or not discretionary;

(22) prosecute or defend claims or proceedings in any jurisdiction for the protection of the estate and of the personal representative in the performance of the personal representative's duties;

(23) sell, mortgage, or lease any real or personal property of the estate or any interest therein for cash, credit, or for part cash and part credit and with or without security for unpaid balances; ~~provided, however, a personal representative may not, without prior court approval in a supervised proceeding, either directly or indirectly purchase any property of the estate~~

that the personal representative represents, nor be interested in the sale. All sales must be fairly conducted and made for the best price obtainable.

(24) continue any unincorporated business or venture in which the decedent was engaged at the time of death in the same business form, including a sole proprietorship, partnership, or limited liability company, unless otherwise ordered by the court in a formal proceeding initiated by an interested person on the basis that continuation of the business is not in the best interests of the estate or its beneficiaries;

(25) incorporate any business or venture in which the decedent was engaged at the time of death;

(26) satisfy and settle claims and distribute the estate as provided in this code.”

Section 72. Powers of personal representatives in general. (1) Until termination of his appointment a personal representative has the same power over the title to property of the estate that an absolute owner would have, in trust however, for the benefit of the creditors and others interested in the estate. This power may be exercised without notice, hearing, or order of court.

(2) A personal representative has access to and authority over a digital asset of the decedent to the extent provided by the Revised Uniform Fiduciary Access to Digital Assets Act or by order of court.

Section 73. Section 72-3-618, MCA, is amended to read:

“72-3-618. Persons dealing with personal representative – protection. (1) A person who in good faith and without notice either assists a personal representative or deals with a personal representative for value is protected as if the personal representative properly exercised the personal representative’s power. The fact that a person knowingly deals with a personal representative does not alone require the person to inquire into the existence of a power or the propriety of its exercise. Except for restrictions on powers of supervised personal representatives that are endorsed on letters as provided in 72-3-404(3) 72-3-404, a provision in any will or order of court purporting to limit the power of a personal representative is not effective except as to persons with actual knowledge of the provision.

(2) A person is not bound to see to the proper application of estate assets paid or delivered to a personal representative.

(3) The protection expressed in this section extends to instances in which some procedural irregularity or jurisdictional defect occurred in proceedings leading to the issuance of letters, including a case in which the alleged decedent is found to be alive. The protection expressed in this section is not a substitution for that provided by comparable provisions of the laws relating to commercial transactions and laws simplifying transfers of securities by fiduciaries.”

Section 74. Section 72-3-631, MCA, is amended to read:

“72-3-631. Compensation of personal representative. (1) A personal representative is entitled to reasonable compensation for services. The compensation may not exceed 3% of the first \$40,000 of the value of the estate as reported for federal estate tax purposes and 2% of the value of the estate in excess of \$40,000 as reported for federal estate tax purposes. However, a personal representative is entitled to a minimum compensation of the lesser of \$100 or the value of the gross estate.

(2) In proceedings conducted for the termination of joint tenancies, the compensation of the personal representative may not exceed 2% of the interest passing.

(3) In proceedings conducted for the termination of a life estate, the compensation allowed the personal representative may not exceed 2% of the value of the life estate if it is terminated in connection with a probate or joint

tenancy termination. If a life estate is terminated separately, the personal representative's compensation may not exceed 2% of the value of the estate, except that it may not be less than \$100.

(4) If there is more than one personal representative, only one compensation is allowed.

(5) ~~The court may allow additional compensation for extraordinary services. The additional compensation may not be greater than the amount that is allowed for the original compensation.~~

(6)(2) If the will provides for the compensation of the personal representative and there is no contract with the decedent regarding compensation, the personal representative may renounce the provision before qualifying and be entitled to compensation under the terms of this section. A personal representative also may renounce the right to all or any part of the compensation. A written renunciation of fee may be filed with the court."

Section 75. Section 72-3-803, MCA, is amended to read:

"72-3-803. Nonclaim -- limitations on presentation of claims -- exceptions. (1) All claims against a decedent's estate that arose before the death of the decedent, including claims of the state and any subdivision of the state, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not barred earlier by other statute of limitations, are barred against the estate, the personal representative, and the heirs and devisees *and nonprobate transferees* of the decedent unless presented within the earlier of the following time limitations:

(a) within 1 year after the decedent's death; or

(b) within the time provided by 72-3-801(2) for creditors who are given actual notice and within the time provided in 72-3-801(1) for all creditors barred by publication.

(2) ~~However, claims~~ *A claim described in subsection (1) which is barred by the nonclaim statute at the decedent's domicile before the giving of notice to creditors in this state* ~~are also~~ *is barred in this state.*

(2)(3) All claims against a decedent's estate that arise at or after the death of the decedent, including claims of the state and any subdivision of the state, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, are barred against the estate, the personal representative, and the heirs and devisees of the decedent unless presented as follows:

(a) a claim based on a contract with the personal representative, within 4 months after performance by the personal representative is due;

(b) any other claim, within the later of 4 months after it arises or the time specified in subsection (1)(a).

(3)(4) This section does not affect or prevent:

(a) any proceeding to enforce any mortgage, pledge, or other lien upon property of the estate;

(b) to the limits of the insurance protection only, any proceeding to establish liability of the decedent or the personal representative for which the decedent or the personal representative is protected by liability insurance; or

(c) collection of compensation for services rendered and reimbursement for expenses advanced by the personal representative or by the attorney or accountant for the personal representative of the estate."

Section 76. Section 72-3-815, MCA, is amended to read:

"72-3-815. Compromise of claims. When a claim against the estate has been presented in any manner, the personal representative ~~with the consent of the heirs or devisees or the court~~ may, if it appears for the best interest of the

estate, compromise the claim, whether due or not due, absolute or contingent, liquidated or unliquidated.”

Section 77. Section 72-3-917, MCA, is amended to read:

“72-3-917. Distribution to person under disability. (1) A personal representative may discharge the personal representative’s obligation to distribute to any person under legal disability by distributing in a manner expressly provided in the will.

(2) Unless contrary to an express provision in the will, the personal representative may discharge the personal representative’s obligation to distribute to a minor or person under other disability as authorized by 72-5-104 or any other statute. If the personal representative knows that a conservator has been appointed or that a proceeding for appointment of a conservator is pending, the personal representative is authorized to distribute only to the conservator.

(3) (a) If the heir or devisee is under disability other than minority, the personal representative is authorized to distribute to:

(i) an attorney-in-fact who has authority under a power of attorney to receive property for that person; or

(ii) the spouse, parent, or other close relative with whom the person under disability resides if the distribution is of amounts not exceeding \$10,000 a year or property not exceeding ~~\$10,000~~ \$50,000 in value, unless the court authorizes a larger amount or greater value.

(b) Any person receiving money or property for the disabled person is obligated to apply the money or property to the support of the disabled person, but the receiving person may not accept any pay except by way of reimbursement for out-of-pocket expenses for goods and services necessary for the support of the disabled person. Excess sums must be preserved for future support of the disabled person. The personal representative is not responsible for the proper application of money or property distributed pursuant to this subsection (3).”

Section 78. Section 72-3-1012, MCA, is amended to read:

“72-3-1012. Liability of distributees to claimants. (1) After assets of an estate have been distributed and subject to 72-3-1013, an undischarged claim that is not barred may be prosecuted in a proceeding against one or more distributees. ~~A distributee is not liable to claimants~~ *No distributee shall be liable to claimants for amounts received as exempt property, homestead or family allowances, or for amounts in excess of the value of the distributee’s distribution as of the time of distribution* or for amounts in excess of the value of the distributee’s distribution as of the time of distribution.

(2) As between distributees, each shall bear the cost of satisfaction of unbarred claims as if the claim had been satisfied in the course of administration. Any distributee who fails to notify other distributees of the demand made upon the distributee by the claimant in sufficient time to permit them to join in any proceeding in which the claim was asserted against the distributee loses the right of contribution against other distributees.”

Section 79. Section 72-3-1013, MCA, is amended to read:

“72-3-1013. Limitation on actions against distributees. (1) Unless previously adjudicated in a formal testacy proceeding or in a proceeding settling the accounts of a personal representative or otherwise barred, the claim of any claimant to recover from a distributee who is liable to pay the claim and the right of any heir or devisee or of a successor personal representative acting in their behalf to recover property improperly distributed or the value thereof from any distributee is forever barred at the later of 3 years after the decedent’s

death or 1 year after the time of distribution thereof, *but all claims of creditors of the decedent are barred 1 year after the decedent's death.*

(2) This section does not bar an action to recover property or value received as the result of fraud.”

Section 80. Section 72-4-203, MCA, is amended to read:

“72-4-203. Service on foreign personal representative. (1) Service of process may be made upon the foreign personal representative by *registered or* certified mail addressed to the foreign personal representative’s last reasonably ascertainable address requesting a return receipt signed by addressee only. Notice by ordinary first-class mail is sufficient if *registered or* certified mail service to the addressee is unavailable. Service may be made upon a foreign personal representative in the manner in which service could have been made under other laws of this state on either the foreign personal representative or the foreign personal representative’s decedent immediately prior to death.

(2) If service is made upon a foreign personal representative as provided in subsection (1), the foreign personal representative must be allowed at least 30 days within which to appear or respond.”

Section 81. Section 72-6-111, MCA, is amended to read:

“72-6-111. Nonprobate transfers on death. (1) A provision for a nonprobate transfer on death in an insurance policy, contract of employment, bond, mortgage, promissory note, certificated or uncertificated security, account agreement, custodial agreement, deposit agreement, compensation plan, pension plan, individual retirement plan, employee benefit plan, trust, conveyance, deed of gift, *beneficiary transfer on death* deed, as defined in ~~72-6-121~~ [section 84], marital property agreement, or other written instrument of a similar nature is nontestamentary. This subsection includes a written provision that:

(a) money or other benefits due to, controlled by, or owned by a decedent before death must be paid after the decedent’s death to a person whom the decedent designates either in the instrument or in a separate writing, including a will, executed either before or at the same time as the instrument or later;

(b) money due or to become due under the instrument ceases to be payable in the event of death of the promisee or the promisor before payment or demand; or

(c) any property controlled by or owned by the decedent before death that is the subject of the instrument passes to a person the decedent designates either in the instrument or in a separate writing, including a will, executed either before or at the same time as the instrument or later.

(2) This section does not limit rights of creditors under other laws of this state.”

Section 82. Liability of nonprobate transferees for creditor claims and statutory allowances. (1) In this section, “nonprobate transfer” means a valid transfer effective at death, other than a transfer of a survivorship interest in a joint tenancy of real estate, by a transferor whose last domicile was in this state to the extent that the transferor immediately before death had power, acting alone, to prevent the transfer by revocation or withdrawal and instead to use the property for the benefit of the transferor or apply it to discharge claims against the transferor’s probate estate.

(2) Except as otherwise provided by statute, a transferee of a nonprobate transfer is subject to liability to any probate estate of the decedent for allowed claims against decedent’s probate estate and statutory allowances to the decedent’s spouse and children to the extent the estate is insufficient to satisfy those claims and allowances. The liability of a nonprobate transferee may

not exceed the value of nonprobate transfers received or controlled by that transferee.

(3) Nonprobate transferees are liable for the insufficiency described in subsection (2) in the following order of priority:

(a) a transferee designated in the decedent's will or any other governing instrument, as provided in the instrument;

(b) the trustee of a trust serving as the principal nonprobate instrument in the decedent's estate plan as shown by its designation as devisee of the decedent's residuary estate or by other facts or circumstances, to the extent of the value of the nonprobate transfer received or controlled;

(c) other nonprobate transferees, in proportion to the values received.

(4) Unless otherwise provided by the trust instrument, interests of beneficiaries in all trusts incurring liabilities under this section abate as necessary to satisfy the liability, as if all of the trust instruments were a single will and the interests were devised under it.

(5) A provision made in one instrument may direct the apportionment of the liability among the nonprobate transferees taking under that or any other governing instrument. If a provision in one instrument conflicts with a provision in another, the later one prevails.

(6) Upon due notice to a nonprobate transferee, the liability imposed by this section is enforceable in proceedings in this state, whether or not the transferee is located in this state.

(7) A proceeding under this section may not be commenced unless the personal representative of the decedent's estate has received a written demand for the proceeding from the surviving spouse or a child, to the extent that statutory allowances are affected, or a creditor. If the personal representative declines or fails to commence a proceeding after demand, a person making demand may commence the proceeding in the name of the decedent's estate, at the expense of the person making the demand and not of the estate. A personal representative who declines in good faith to commence a requested proceeding incurs no personal liability for declining.

(8) A proceeding under this section must be commenced within 1 year after the decedent's death, but a proceeding on behalf of a creditor whose claim was allowed after proceedings challenging disallowance of the claim may be commenced within 60 days after final allowance of the claim.

(9) Unless a written notice asserting that a decedent's probate estate is nonexistent or insufficient to pay allowed claims and statutory allowances has been received from the decedent's personal representative, the following rules apply:

(a) Payment or delivery of assets by a financial institution, registrar, or other obligor, to a nonprobate transferee in accordance with the terms of the governing instrument controlling the transfer releases the obligor from all claims for amounts paid or assets delivered.

(b) A trustee receiving or controlling a nonprobate transfer is released from liability under this section with respect to any assets distributed to the trust's beneficiaries. Each beneficiary to the extent of the distribution received becomes liable for the amount of the trustee's liability attributable to assets received by the beneficiary.

Section 83. Short title. [Sections 83 through 100] may be cited as the "Uniform Real Property Transfer on Death Act".

Section 84. Definitions. As used in [sections 83 through 100], the following definitions apply:

(1) "Beneficiary" means a person that receives property under a transfer on death deed.

(2) “Designated beneficiary” means a person designated to receive property in a transfer on death deed.

(3) “Joint owner” means an individual who owns property concurrently with one or more other individuals with a right of survivorship. The term includes a joint tenant. The term does not include a tenant in common.

(4) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(5) “Property” means an interest in real property located in this state which is transferable on the death of the owner.

(6) “Transfer on death deed” means a deed authorized under this part.

(7) “Transferor” means an individual who makes a transfer on death deed.

Section 85. Applicability. [Sections 83 through 100] applies to a transfer on death deed made before, on, or after [the effective date of this act] by a transferor dying on or after [the effective date of this act].

Section 86. Nonexclusivity. [Section 83 through 100] does not affect any method of transferring property otherwise permitted under the law of this state.

Section 87. Transfer on death deed authorized. An individual may transfer property to one or more beneficiaries effective at the transferor’s death by a transfer on death deed.

Section 88. Transfer on death deed revocable. A transfer on death deed is revocable even if the deed or another instrument contains a contrary provision.

Section 89. Transfer on death deed nontestamentary. A transfer on death deed is nontestamentary.

Section 90. Capacity of transferor. The capacity required to make or revoke a transfer on death deed is the same as the capacity required to make a will.

Section 91. Requirements. A transfer on death deed:

(1) except as otherwise provided in subsection (2), must contain the essential elements and formalities of a properly recordable inter vivos deed;

(2) must state that the transfer to the designated beneficiary is to occur at the transferor’s death; and

(3) must be recorded before the transferor’s death in the public records in the office of the county clerk and recorder of the county where the property is located.

Section 92. Notice, delivery, acceptance, consideration not required. A transfer on death deed is effective without:

(1) notice or delivery to or acceptance by the designated beneficiary during the transferor’s life; or

(2) consideration.

Section 93. Revocation by instrument authorized – revocation by act not permitted. (1) Subject to subsection (2), an instrument is effective to revoke a recorded transfer on death deed, or any part of it, only if the instrument:

(a) is one of the following:

(i) a transfer on death deed that revokes the deed or part of the deed expressly or by inconsistency;

(ii) an instrument of revocation that expressly revokes the deed or part of the deed;

(iii) an inter vivos deed that expressly revokes the transfer on death deed or part of the deed; and (b) is acknowledged by the transferor after the

acknowledgment of the deed being revoked and recorded before the transferor's death in the public records in the office of the county clerk and recorder of the county where the deed is recorded.

(2) If a transfer on death deed is made by more than one transferor:

(a) revocation by a transferor does not affect the deed as to the interest of another transferor; and

(b) a deed of joint owners is revoked only if it is revoked by all of the living joint owners.

(3) After a transfer on death deed is recorded, it may not be revoked by a revocatory act on the deed.

(4) This section does not limit the effect of an inter vivos transfer of the property, which revokes any prior transfer on death deed to the property.

Section 94. Effect of transfer on death deed during transferor's life. During a transferor's life, a transfer on death deed does not:

(1) affect an interest or right of the transferor or any other owner, including the right to transfer or encumber the property;

(2) affect an interest or right of a transferee, even if the transferee has actual or constructive notice of the deed;

(3) affect an interest or right of a secured or unsecured creditor or future creditor of the transferor, even if the creditor has actual or constructive notice of the deed;

(4) affect the transferor's or designated beneficiary's eligibility for any form of public assistance;

(5) create a legal or equitable interest in favor of the designated beneficiary;

or

(6) subject the property to claims or process of a creditor of the designated beneficiary.

Section 95. Effect of transfer on death deed at transferor's death.

(1) Except as otherwise provided in the transfer on death deed, in [section 82], or in this section, and subject to chapter 2, part 2, of this title, on the death of the transferor, the following rules apply to property that is the subject of a transfer on death deed and owned by the transferor at death:

(a) Subject to subsection (1)(b), the interest in the property is transferred to the designated beneficiary in accordance with the deed.

(b) The interest of a designated beneficiary is contingent on the designated beneficiary surviving the transferor. The interest of a designated beneficiary that fails to survive the transferor lapses.

(c) Subject to subsection (1)(d), concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship.

(d) If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the share of one which lapses or fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently.

(2) Subject to Title 70, chapter 21, a beneficiary takes the property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests to which the property is subject at the transferor's death. For purposes of this subsection and Title 70, chapter 21, the recording of the transfer on death deed is deemed to have occurred at the transferor's death.

(3) If a transferor is a joint owner and is:

(a) survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship; or

(b) the last surviving joint owner, the transfer on death deed is effective.

(4) A transfer on death deed transfers property without covenant or warranty of title even if the deed contains a contrary provision.

Section 96. Disclaimer. A beneficiary may disclaim all or part of the beneficiary’s interest as provided by [sections 39 through 55], the Uniform Disclaimer of Property Interests Act.

Section 97. Liability for creditor claims and statutory allowances. A beneficiary of a transfer on death deed is liable for an allowed claim against the transferor’s probate estate and statutory allowances to a surviving spouse and children to the extent provided in [section 82].

Section 98. Optional form of transfer on death deed. The following form may be used to create a transfer on death deed. The other sections of [sections 83 through 100] govern the effect of this or any other instrument used to create a transfer on death deed:

(front of form)

REVOCABLE TRANSFER ON DEATH DEED

NOTICE TO OWNER

You should carefully read all information on the other side of this form. You May Want to Consult a Lawyer Before Using This Form.

This form must be recorded before your death, or it will not be effective.

IDENTIFYING INFORMATION

Owner or Owners Making This Deed:

Printed name

Mailing address

Printed name

Mailing address

Legal description of the property:

PRIMARY BENEFICIARY

I designate the following beneficiary if the beneficiary survives me.

Printed name

Mailing address, if available

ALTERNATE BENEFICIARY - Optional

If my primary beneficiary does not survive me, I designate the following alternate beneficiary if that beneficiary survives me.

Printed name

Mailing address, if available

TRANSFER ON DEATH

At my death, I transfer my interest in the described property to the beneficiaries as designated above.

Before my death, I have the right to revoke this deed.

SIGNATURE OF OWNER OR OWNERS MAKING THIS DEED

Signature

[(SEAL)]

Date

Signature

[(SEAL)]

Date

ACKNOWLEDGMENT

(insert acknowledgment for deed here)

(back of form)

COMMON QUESTIONS ABOUT THE USE OF THIS FORM

What does the Transfer on Death (TOD) deed do? When you die, this deed transfers the described property, subject to any liens or mortgages (or other encumbrances) on the property at your death. Probate is not required. The TOD deed has no effect until you die. You can revoke it at any time. You are also free to transfer the property to someone else during your lifetime. If you do not own any interest in the property when you die, this deed will have no effect.

How do I make a TOD deed? Complete this form. Have it acknowledged before a notary public or other individual authorized by law to take acknowledgments. Record the form in each county where any part of the property is located. The form has no effect unless it is acknowledged and recorded before your death.

Is the “legal description” of the property necessary? Yes.

How do I find the “legal description” of the property? This information may be on the deed you received when you became an owner of the property. This information may also be available in the office of the county clerk and recorder for the county where the property is located. If you are not absolutely sure, consult a lawyer.

Can I change my mind before I record the TOD deed? Yes. If you have not yet recorded the deed and want to change your mind, simply tear up or otherwise destroy the deed.

How do I “record” the TOD deed? Take the completed and acknowledged form to the office of the county clerk and recorder of the county where the property is located. Follow the instructions given by the county clerk and recorder to make the form part of the official property records. If the property is in more than one county, you should record the deed in each county.

Can I later revoke the TOD deed if I change my mind? Yes. You can revoke the TOD deed. No one, including the beneficiaries, can prevent you from revoking the deed.

How do I revoke the TOD deed after it is recorded? There are three ways to revoke a recorded TOD deed:

- (1) Complete and acknowledge a revocation form, and record it in each county where the property is located.
- (2) Complete and acknowledge a new TOD deed that disposes of the same property, and record it in each county where the property is located.
- (3) Transfer the property to someone else during your lifetime by a recorded deed that expressly revokes the TOD deed. You may not revoke the TOD deed by will.

I am being pressured to complete this form. What should I do? Do not complete this form under pressure. Seek help from a trusted family member, friend, or lawyer.

Do I need to tell the beneficiaries about the TOD deed? No, but it is recommended. Secrecy can cause later complications and might make it easier for others to commit fraud.

I have other questions about this form. What should I do? This form is designed to fit some but not all situations. If you have other questions, you are encouraged to consult a lawyer.

Section 99. Optional form of revocation. The following form may be used to create an instrument of revocation under [sections 83 through 100]. The other sections of [sections 83 through 100] govern the effect of this or any other instrument used to revoke a transfer on death deed.

(front of form)
REVOCATION OF TRANSFER ON DEATH DEED

NOTICE TO OWNER

This revocation must be recorded before you die or it will not be effective. This revocation is effective only as to the interests in the property of owners who sign this revocation.

IDENTIFYING INFORMATION

Owner or Owners of Property Making This Revocation:

_____ Printed name	_____ Mailing address
_____ Printed name	_____ Mailing address
_____ Legal description of the property:	

REVOCATION

I revoke all my previous transfers of this property by transfer on death deed.

SIGNATURE OF OWNER OR OWNERS MAKING THIS REVOCATION

_____ Signature	_____ Date
_____ Signature	_____ Date

ACKNOWLEDGMENT

(insert acknowledgment here)

(back of form)
COMMON QUESTIONS ABOUT THE USE OF THIS FORM

How do I use this form to revoke a Transfer on Death (TOD) deed? Complete this form. Have it acknowledged before a notary public or other individual authorized to take acknowledgments. Record the form in the public records in the office of the county clerk and recorder of each county where the property is located. The form must be acknowledged and recorded before your death or it has no effect.

How do I find the “legal description” of the property? This information may be on the TOD deed. It may also be available in the office of the county clerk and recorder for the county where the property is located. If you are not absolutely sure, consult a lawyer.

How do I “record” the form? Take the completed and acknowledged form to the office of the county clerk and recorder of deeds of the county where the property is located. Follow the instructions given by the county clerk and recorder to make the form part of the official property records. If the property is located in more than one county, you should record the form in each of those counties. I am being pressured to complete this form. What should I do? Do not complete this form under pressure. Seek help from a trusted family member, friend, or lawyer.

I have other questions about this form. What should I do? This form is designed to fit some but not all situations. If you have other questions, consult a lawyer.

Section 100. Prior executed and recorded beneficiary deed. Any beneficiary deed that was executed and recorded prior to [the effective date of this act] and which complied with the law in effect when it was recorded, shall be deemed to be a transfer on death deed for the purposes of [sections 83 through 100].

Section 101. Section 72-7-401, MCA, is amended to read:

“72-7-401. Disclaimer. As provided by ~~72-2-811~~ [sections 47 and 48]:

- (1) a powerholder may disclaim all or part of a power of appointment; and
- (2) a permissible appointee, appointee, or taker in default of appointment may disclaim all or part of an interest in appointive property.”

Section 102. Section 72-15-301, MCA, is amended to read:

“72-15-301. Compensation of public administrator. (1) The public administrator must receive and shall collect for the administrator’s own use as full compensation for services under this chapter, ~~including attorney fees, the amounts the amount~~ provided for in 72-3-631 and 72-3-633.

(2) When the public administrator is appointed conservator of the estate of a protected person pursuant to chapter 5, part 4, of this title, the court may order that a reasonable sum be deducted from payments due to the protected person or from the protected person’s estate to be paid to the public administrator as full compensation for the public administrator’s services, excluding court costs and attorney fees. The total sum deducted as compensation for the public administrator may not be less than \$100.”

Section 103. Directions to code commissioner. (1) The code commissioner is instructed to renumber 72-2-223, 72-2-225, 72-2-228, and 72-2-230 in accordance with the Uniform Probate Code.

(2) The code commissioner is instructed to change all internal references within and to the renumbered sections in the Montana Code Annotated, including within sections enacted or amended by the 2019 legislature, to reflect new section numbers assigned pursuant to this section.

Section 104. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 72, chapter 1, and the provisions of Title 72, chapter 1, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 72, and the provisions of Title 72 apply to [section 2].

(3) [Sections 12 through 22] are intended to be codified as an integral part of Title 72, chapter 2, part 2, and the provisions of Title 72, chapter 2, part 2, apply to [sections 12 through 22].

(4) [Sections 37 through 55] are intended to be codified as an integral part of Title 72, chapter 2, part 8, and the provisions of Title 72, chapter 2, part 8, apply to [sections 37 through 55].

(5) [Section 63] is intended to be codified as an integral part of Title 72, chapter 3, part 3, and the provisions of Title 72, chapter 3, part 3, apply to [section 63].

(6) [Section 72] is intended to be codified as an integral part of Title 72, chapter 3, part 6, and the provisions of Title 72, chapter 3, part 6, apply to [section 72].

(7) [Section 82] is intended to be codified as an integral part of Title 72, chapter 6, part 1, and the provisions of Title 72, chapter 6, part 1, apply to [section 82].

(8) [Sections 83 through 100] are intended to be codified as an integral part of Title 72, chapter 6, and the provisions of Title 72, chapter 6, apply to [sections 83 through 100].

Section 105. Repealer. The following sections of the Montana Code Annotated are repealed:

- 72-2-215. Reporting duty of personal representative in estate involving alien heir.
- 72-2-221. Elective share.
- 72-2-222. Augmented estate.
- 72-2-224. Waiver of right to elect and of other rights.

- 72-2-226. Effect of election on statutory benefits.
- 72-2-227. Sources from which elective share payable.
- 72-2-811. Disclaimer of property interests.
- 72-3-113. Rules for determining location of property.
- 72-3-309. Testimony of attesting witnesses in contested cases -- presumptions for self-proved will.
- 72-3-633. Compensation of attorney.
- 72-6-121. Beneficiary deed -- form -- definitions.
- 72-6-123. Liability for creditor claims and statutory allowances.

Approved May 7, 2019

CHAPTER NO. 314

[SB 232]

AN ACT ALLOWING A COUNTY TO PAY FOR USE OF A BUILDING AS A POLLING PLACE IN CERTAIN CIRCUMSTANCES; AND AMENDING SECTION 13-3-105, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-3-105, MCA, is amended to read:

“13-3-105. Designation of polling place. (1) The county governing body shall designate the polling place for each precinct no later than 30 days before a primary election. The same polling place must be used for both the primary and general election if at all possible. Changes may be made by the governing body in designated polling places up to 10 days before an election if a designated polling place is not available. Polling places may be located outside the boundaries of a precinct.

(2) Not more than 10 days or less than 2 days before an election, the election administrator shall publish in a newspaper of general circulation in the county a statement of the locations of the precinct polling places. The election administrator shall include in the published notice the accessibility designation for each polling place according to the classification in 13-3-207. Notice may also be given as provided in 2-3-105 through 2-3-107.

(3) An election administrator may make changes in the location of a polling place if an emergency occurs 10 days or less before an election. Notice must be posted at both the old and new polling places, and other notice may be given by whatever means available.

(4) (a) Any building may be used as a polling place. The building must be furnished at no charge as long as no structural changes are required in order to use the building as a polling place.

(b) *If the building regularly used as a designated polling place is not available for an election because of an unforeseen or temporary circumstance and no other suitable building is available free of charge, the county may pay for use of a building as a temporary polling place for that election provided that the building meets the polling place standards under this chapter. If a county pays for the use of a building as a temporary polling place because of an unforeseen or temporary circumstance, the county shall provide with its regular report on election costs to the secretary of state any costs incurred for use of a building pursuant to this subsection (4)(b).*

(5) The exterior of the voting systems, or of the booths in which they are placed, and every part of the polling place must be in plain view of the election judges.”

Approved May 7, 2019

CHAPTER NO. 315

[SB 240]

AN ACT RESTORING RESCISSION OF INSURANCE CONTRACTS IN THE EVENT OF FRAUD, MATERIAL MISREPRESENTATION, AND OTHER CIRCUMSTANCES; PROVIDING THAT RESCISSION MAY BE DETERMINED UNDER THE UNIFORM DECLARATORY JUDGMENTS ACT; AMENDING SECTION 33-15-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the National Association of Insurance Commissioners estimates that insurance fraud costs over a hundred billion dollars per year and is financially damaging to not only insurance companies, but also to insurance consumers; and

WHEREAS, this act restores the right of rescission of insurance contracts in the event of fraud, material misrepresentation, and other circumstances, to combat the detrimental effect insurance fraud has on the economy and society as a whole.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-15-403, MCA, is amended to read:

“33-15-403. Representations in applications – recovery benefit precluded and rescission allowed if fraudulent or material. (1) All statements and descriptions in any application for an insurance policy or annuity contract or in negotiations for an insurance policy or annuity contract by or on behalf of the insured or annuitant are considered representations and not warranties.

(2) Misrepresentations, omissions, concealment of facts, and incorrect statements ~~do not prevent a recovery~~ *preclude a benefit and allow rescission* under the policy or contract ~~unless if:~~

(a) *the representations are* fraudulent;

(b) *the representations are* material either to the acceptance of the risk or to the hazard assumed by the insurer; or

(c) the insurer in good faith would either not have issued the policy or contract or would not have issued a policy or contract in as large an amount or at the same premium or rate or would not have provided coverage with respect to the hazard resulting in the loss if the true facts had been made known to the insurer as required either by the application for the policy or contract or otherwise; *and*

(d) the questions in the application are sufficiently specific that a reasonable person would understand the requirement to provide the particular facts and that the applicant's response was material to the insurer's decision to provide coverage or to determine the premium or rate to be charged for the coverage.

~~⊕(3)~~ Subsection (2)(c) does not apply to nonrenewal or discontinuation of group health insurance offered in connection with a group health plan in the small group market or large group market, as those terms are defined in 33-22-140.

(4) If the parties to an insurance policy disagree regarding the propriety of rescission of a policy or a contract under this section, the district courts of this state have jurisdiction to determine the relative rights of the parties under the Uniform Declaratory Judgments Act in Title 27, chapter 8.

(5) This section may not be construed to limit or impair the powers and authority of the commissioner under this title.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2019

CHAPTER NO. 316

[SB 244]

AN ACT REVISING PUBLIC UTILITY ELECTRICITY COST RECOVERY; CLARIFYING STANDARDIZED TREATMENT OF PUBLIC UTILITIES SUBJECT TO TITLE 69, CHAPTER 3; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Cost tracking and recovery. (1) If the commission approves a cost-tracking adjustment for a public utility regulated in accordance with chapter 8 or under this chapter, the cost-tracking adjustment must provide for:

(a) identical treatment of public utilities subject to chapter 8 or this chapter;

(b) 90% customer and 10% shareholder sharing of costs, if cost sharing is required; and

(c) full recovery of costs incurred by a public utility as a result of qualifying small power production facility purchase requirements established in Title 69, chapter 3, part 6.

(2) A cost-tracking adjustment may not include a deadband.

(3) For the purposes of this section, “deadband” means a level of cost recovery variance, including levels of under-recoveries and over-recoveries to be borne by the public utility.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 69, chapter 3, and the provisions of Title 69, chapter 3, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2019

CHAPTER NO. 317

[SB 253]

AN ACT GENERALLY REVISING TAX LIEN AND TAX DEED LAWS; REVISING THE TAX LIEN AND TAX DEED PROCESS FOR RESIDENTIAL, AGRICULTURAL, AND FOREST PROPERTY WITH A DWELLING; REQUIRING THE ASSIGNEE TO APPLY TO THE COUNTY TREASURER FOR A TAX DEED; PROVIDING THAT UPON APPLICATION FOR A TAX DEED, THE TAX DEED BE AUCTIONED TO THE HIGHEST BIDDER; PROVIDING A REQUIRED OPENING BID AT TAX DEED AUCTION THAT INCLUDES HALF THE ASSESSED VALUE OF THE PROPERTY; PROVIDING THAT THE TRUE PROPERTY OWNER AND LIENHOLDERS OF A TAX DEED AUCTIONED PROPERTY CAN REQUEST FUNDS IN EXCESS OF THE DIFFERENCE BETWEEN THE SALE PRICE AND THE OPENING BID; AMENDING SECTIONS 15-17-121, 15-18-112, 15-18-211, 15-18-212, 15-18-213, 15-18-214, 15-18-215, 15-18-216, 15-18-217, 15-18-411, 15-18-412, 15-18-413, AND 70-9-803, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Application for tax deed for residential property – fee – notice. (1) (a) If a property tax lien attached to the property provided for in subsection (1)(b) is not redeemed in the time allowed under 15-18-111, the assignee may file an application after the redemption period has expired with

the county treasurer for a tax deed for the property. The deed application must contain the same information as is required in 15-18-211(1). The county treasurer shall charge the assignee a \$25 application fee. The fee must be deposited in the county general fund.

(b) The following property is subject to the provisions of this section if it contains a dwelling:

- (i) land classified as residential pursuant to 15-6-134;
- (ii) land classified as agricultural pursuant to 15-6-133(1)(a) and (1)(c); and
- (iii) land classified as forest property pursuant to 15-6-143.

(c) For the property provided for in subsection (1)(b)(ii) and (1)(b)(iii), the provisions of this section also apply to other property of the same class that is included on the same tax bill.

(2) An assignee who applies for a tax deed pursuant to this section shall pay the county treasurer at the time of the tax deed application:

(a) the amount required to redeem any unassigned tax liens or tax liens held by other assignees;

(b) any delinquent taxes, penalties, and interest;

(c) current taxes due for the property; and

(d) the cost of filing the notice of a tax deed application.

(3) (a) The county treasurer shall have the county clerk and recorder file a notice of the tax deed application, which constitutes notice of the pendency of the tax deed application with respect to the property and remains effective for 1 year from the date of the filing.

(b) A person acquiring an interest in the property after the tax deed application notice has been filed is considered to be on notice of the pending tax deed sale, and no additional notice is required. The sale of the property automatically releases any filed notice of tax deed application for the property.

(c) If the property is redeemed, the county treasurer shall file a release of the notice of tax deed application.

(4) (a) Prior to applying for a tax deed, the assignee shall notify the parties as required in subsection (4)(b) that a tax deed will be auctioned unless the property tax lien is redeemed before the date of the auction.

(b) The notice required under subsection (4)(a) must be in the form required by 15-18-215(1) and be made by certified mail, return receipt requested, to the current occupant, if any, of the property and to each party, other than a utility, listed on a litigation guarantee, provided that the guarantee:

(i) has been approved by the insurance commissioner and issued by a licensed title insurance producer;

(ii) was ordered on the property by the person required to give notice; and

(iii) lists the identities and addresses of the parties of record that have an interest or possible claim of an interest in the property designed to disclose all parties of record that would otherwise be necessary to name in a quiet title action.

(c) The address to which the notice must be sent is, for each party, the address disclosed by the records in the office of the county clerk and recorder or in the litigation guarantee and, for the occupant, the street address or other known address of the subject property.

(d) If the assignee fails to give notice as required by this subsection (4), as evidenced by failure to file proof of notice with the county clerk and recorder as required in subsection (5), the county treasurer shall cancel the property tax lien evidenced by the tax lien certificate and the assignment certificate. Upon cancellation of the property tax lien, the county treasurer shall file with the county clerk and recorder a notice of cancellation on a form provided for in 15-18-217.

(5) Proof of notice must be given as provided in 15-18-216 and must be filed with the county clerk and recorder. An assignee must file proof of notice with the county clerk and recorder within 30 days of the mailing or publishing of the notice. Once filed, the proof of notice is prima facie evidence of the sufficiency of the notice.

Section 2. Sale at public auction – notice of auction. (1) Upon receipt of an application for a tax deed pursuant to [section 1], the county treasurer shall hold a public auction in the county in which the property is located within 60 days of receipt of the application. The county treasurer shall publish notice of the auction as provided in 7-1-2121 that includes the date, time, and location of the auction, the legal description of the property, the deposit requirement, and the minimum opening bid. The auction must be held during the regular office hours of the county treasurer.

(2) (a) The opening bid on the property must be the amount required in subsection (2)(b), and the county treasurer may not accept a bid below the opening bid.

(b) The opening bid for the property is equal to the sum of:

(i) the amount required to redeem the tax lien, which includes delinquent taxes, penalties, interest, and costs;

(ii) amounts paid by the assignee upon application for the tax deed pursuant to [section 1(2)]; and

(iii) an amount equal to half of the most recent assessed value of the land and of the dwelling or half of the value of the land and of the dwelling as determined in an independent appraisal. If the opening bid is based on an independent appraisal, the appraisal must be provided to the county treasurer, must meet the standards set by the Montana board of real estate appraisers, and must have been conducted within 6 months of the date of the auction.

(3) (a) The county treasurer shall sell the property to the high bidder for the purchase price bid. Except as provided in subsection (3)(b), the high bidder shall post with the county treasurer a nonrefundable deposit of 5% of the bid or \$200, whichever is greater, at the time of sale. The deposit is applied to the sale price at the time of full payment. Notice of the deposit requirement must be posted at the auction site, and the county treasurer may require bidders to show their ability to post the deposit. The county treasurer may refuse to recognize the bid of a person who has previously bid and refused, for any reason, to honor the bid.

(b) If the tax deed applicant is the high bidder, the tax deed applicant shall pay to the county treasurer any amounts included in the opening bid and not already paid, including filing fees, tax deed fees, and one-half of the most recent assessed value of the land and of the dwelling. The amounts paid with the tax deed application must be subtracted from the deposit required in subsection (3)(a).

(c) If full payment of the purchase price and recording fees is not made within 24 hours of the sale, excluding weekends and legal holidays, the county treasurer shall cancel all bids, notice the auction as provided in subsection (5), and pay costs of the resale from the deposit. Any funds remaining from the deposit must be applied to the opening bid.

(d) The portion of the opening bid that is equal to half of the most recent assessed value of the land and of the dwelling is considered surplus funds and, upon sale of the property, must be distributed as provided in [section 3(3)]. If the purchase price is higher than the opening bid, the difference between the purchase price and the opening bid is considered surplus funds and must be distributed as provided in [section 3(3)].

(4) Upon full payment of the purchase price, the county treasurer shall issue the tax deed in the form provided in 15-18-213 and distribute the funds as provided in [section 3].

(5) If the sale is canceled for any reason or if the buyer fails to make full payment within the time required, the county treasurer shall, within 30 days after the buyer's nonpayment or cancellation of the sale, notice the sale as provided in subsection (1). The sale must be held within 30 days of the date of the notice. The opening bid provided for in subsection (2) must be increased by the cost of giving notice and additional county treasurer's fees.

(6) An auction required pursuant to this section may be conducted electronically.

Section 3. Distribution of tax deed auction proceeds. (1) The county treasurer shall distribute the proceeds of a tax deed auction pursuant to [section 2] as provided in this section.

(2) If the tax deed is purchased by a person other than the person who applied for the tax deed, the county treasurer shall pay to the applicant for the tax deed:

(a) the amount paid for the assignment of the tax deed, including delinquent taxes, penalties, interest, and costs; and

(b) all amounts paid pursuant to [section 1(2)] plus interest at the rate of 1.5% per month for the period from the month after the date of the application for the tax deed through the month of the sale.

(3) The surplus funds provided for in [section 2(3)(d)] must be retained by the county treasurer for the benefit of and distribution to those notified pursuant to [section 1(4)]. To the extent possible, the surplus funds must be distributed by the county treasurer to satisfy in full each person notified pursuant to [section 1(4)] with a senior mortgage or lien in the property before distribution of any funds to any junior mortgage or lien claimant or to the former property owner. To be considered for funds when they are distributed, the claimant must file a notarized statement of claim with the county treasurer within 30 days of the auction. The claim must include the particulars of the lien and the amounts currently due. Any lienholder claim that is not filed within the 30-day deadline is barred.

(4) Except for claims by a property owner, claims that are not filed on or before close of business on the 30th day after the date of the auction are barred. A person, other than the property owner, who fails to file a proper and timely claim is barred from receiving any disbursement of the surplus funds. The failure of any person described in [section 1(4)], other than the property owner, to file a claim for surplus funds within the 30 days constitutes a waiver of interest in the surplus funds, and all claims are forever barred.

(5) Within 90 days after the claim period expires, the county treasurer shall pay the surplus funds according to the county treasurer's determination of the priority of claims using the information provided by the claimants. Fees and costs incurred by the county treasurer in determining the priority of the claims must be paid from the surplus funds.

(6) If the county treasurer does not receive claims for surplus funds within the 30-day claim period, as required in subsection (4), there is a conclusive presumption that the legal titleholder of record described is entitled to the surplus funds. The county treasurer shall process the surplus funds regardless of whether the legal titleholder is a resident of the state or not. The surplus funds are considered to be unclaimed property if not claimed within 5 years as provided in 70-9-803(1)(q).

Section 4. Section 15-17-121, MCA, is amended to read:

“15-17-121. Definitions. Except as otherwise specifically provided, when terms mentioned in Title 15, chapters 17 and 18, are used in connection with taxation, they are defined in the following manner:

(1) “Assignee” means ~~any a person, other than the person to whom the property is assessed,~~ *other than the person to whom the property is assessed*, who pays the delinquent taxes, including penalties, interest, and costs, and receives a tax lien certificate representing a lien on the property and an assignment certificate.

(2) “Assignment certificate” means the document described in 15-17-323.

(3) (a) “Cost” means the cost incurred by the county as a result of a taxpayer’s failure to pay taxes when due. It includes but is not limited to any actual out-of-pocket expenses incurred by the county plus the administrative cost of:

- (i) preparing the list of delinquent taxes;
- (ii) preparing the notice of pending attachment of a tax lien;
- (iii) assigning the county’s interest in a tax lien to a third party;
- (iv) identifying interested persons entitled to notice of the pending ~~issuance~~ *issuance* of a tax deed;
- (v) notifying interested persons;
- (vi) ~~sale or resale;~~
- (~~vi~~) *(vii)* issuing the tax deed; and
- (~~vii~~) *(viii)* any other administrative task associated with accounting for or collecting delinquent taxes.

(b) The term includes costs that are required by law and incurred by an assignee. The county treasurer may require the assignee to provide receipts or may allow the assignee to provide a notarized affidavit of costs to the county treasurer ~~upon issuance of a tax lien certificate as required in 15-17-125 and notification that a tax deed may be issued as required by 15-18-212 and 15-18-216 upon issuance of a tax lien certificate as required in 15-17-125 and notification that a tax deed may be issued as required by 15-18-212, 15-18-216, and [section 1].~~ A county treasurer may at any time require an assignee who provided an affidavit of costs to submit the receipted costs upon which the affidavit was based.

(c) ~~The term does not include interest for payments for the following:~~

(i) ~~postage for certified mailings and certified mailings with return receipt requested;~~

(ii) ~~a title search, to the extent necessary to identify interested persons entitled to notice of the pending issuance of a tax deed;~~

(iii) ~~publishing costs for required publications; and~~

(iv) ~~filing costs for proof of notice.~~

(c) *The term does not include interest for payments for the following:*

(i) *postage for certified mailings and certified mailings with return receipt requested;*

(ii) *a title search, to the extent necessary to identify interested persons entitled to notice of the pending issuance or auction of a tax deed;*

(iii) *publishing costs for required publications; and*

(iv) *filing costs for proof of notice.*

(4) “County” means any county government and includes those classified as consolidated governments.

(5) (a) “*Dwelling*” means a house or other structure intended for human habitation, including buildings attached to the dwelling.

(b) *The term does not include a dwelling that is not on a permanent foundation and that is classified by the department of revenue as personal property.*

(5)(6) “Property tax lien” or “tax lien” means a lien attached by the county for nonpayment of property taxes, including penalties, interest, and costs.

(6)(7) “Tax”, “taxes”, or “property taxes” means all ad valorem property taxes, property assessments, fees related to property, and assessments for special improvement districts and rural special improvement districts.

(7)(8) “Tax lien certificate” means the document described in 15-17-125.

(8)(9) “Tax lien sale” means, with respect to personal property, the offering for sale by the county treasurer of personal property on which the taxes are delinquent or other personal property on which the delinquent taxes are a lien.”

Section 5. Section 15-18-112, MCA, is amended to read:

“15-18-112. Redemption from property tax lien – lien on interest in property for taxes paid. (1) (a) Except as provided in subsections (1)(b) and (4), in all cases in which a property tax lien has been assigned, the assignee may pay the subsequent taxes assessed against the property on or after June 1 and prior to July 31 if the taxes have not been paid by the property owner.

(b) If the property qualifies for the property tax assistance program provided for in 15-6-305 and the taxes have not been paid by the property owner, the subsequent taxes may be paid after the time period provided for in 15-16-102(4)(b) and prior to July 31.

(2) Upon redemption of the property tax lien, the redemptioner shall pay, in addition to the amount of the property tax lien, including penalties, interest, and costs, the subsequent taxes assessed, with interest and penalty at the rate established for delinquent taxes in 15-16-102.

(3) An owner of less than all of the interest or a lienholder with an interest in real property who redeems a property tax lien on the property has a lien for the taxes paid on the interests of the property that are not owned by the redemptioner.

(4) The property tax lien may also be redeemed for a particular tax year by a partial payment of that tax year, as provided in 15-16-102(5), if:

(a) the property tax lien for the year in which the partial payment is made is owned by the county; and

(b) the tax deed has not been issued pursuant to ~~15-18-211~~ 15-18-211 or [section 2].”

Section 6. Section 15-18-211, MCA, is amended to read:

“15-18-211. Tax deed – fee. (1) Except as provided in [section 1] and subsection (3) of this section, if the property tax lien is not redeemed in the time allowed under 15-18-111, the county treasurer shall grant the assignee a tax deed for the property. The deed must contain the same information as is required in a tax lien certificate under 15-17-125 and an assignment certificate under 15-17-323, except the description of the property must be the full legal description.

(2) (a) Except as provided in subsection (2)(b), the county treasurer shall charge the assignee \$25 for making the deed plus all actual costs incurred by the county in giving the notice or assisting an assignee in giving the notice required in 15-18-212. The fee must be deposited in the county general fund.

(b) If the tax deed is issued to the county, no fee may be charged for making the deed.

(c) Reasonable costs incurred by the county in searching the county records to identify persons entitled to notice are considered part of the actual costs of the notice provided in subsection (2)(a).

(3) If no assignment has been made, the county treasurer may not issue a tax deed to the county unless the board of county commissioners, by resolution, directs the county treasurer to issue a tax deed.

(4) Deeds issued to assignees or the county must be recorded by the county clerk as provided in Title 7, chapter 4, part 26, except that when the county is issued the tax deed, the county clerk may not charge a fee for recording the deed."

Section 7. Section 15-18-212, MCA, is amended to read:

"15-18-212. Notice – proof of notice – penalty for failure to notify.

(1) Between May 1 and May 30 of the year in which the redemption period expires, a notice must be given as follows:

(a) for each property for which the county attached a tax lien and has not assigned the tax lien, the county treasurer shall notify the parties as required in subsection (4) that a tax deed may be issued to the county unless the property tax lien is redeemed prior to the expiration date of the redemption period; or

(b) for each property *other than property provided for in [section 1(1)(b)]* for which the county attached a tax lien and assigned the tax lien pursuant to 15-17-323, the assignee shall notify the parties as required in subsection (4) that a tax deed will be issued to the assignee unless the property tax lien is redeemed prior to the expiration date of the redemption period.

(2) (a) Except as provided in subsection (2)(b), if the county is the possessor of the tax lien, an assignment has not been made, and the board of county commissioners has not directed the county treasurer to issue a tax deed during the period described in subsection (1) but the board of county commissioners at a time subsequent to the period described in subsection (1) does direct the county treasurer to issue a tax deed, the county treasurer shall provide notification to the parties as required in subsection (4) in the manner provided in subsection (1)(a). The notification required under this subsection must be made not less than 60 days or more than 120 days prior to the date on which the county treasurer will issue the tax deed.

(b) If the county commissioners direct the county treasurer to issue a tax deed within 6 months after giving the notice required by subsection (1)(a), additional notice need not be given.

(3) (a) The county treasurer shall notify the assignee of the obligation to give notice under subsection (1)(b) between January 1 and January 31 of the year in which the redemption period expires. The notice of obligation may be sent by certified mail, return receipt requested, to the assignee at the address contained on the assignment certificate provided for in 15-17-323.

(b) If the assignee fails to give notice as required by subsection (1)(b), as evidenced by failure to file proof of notice with the county clerk and recorder as required in subsection (7), the county treasurer shall cancel the property tax lien evidenced by the tax lien certificate and the assignment certificate. Upon cancellation of the property tax lien, the county treasurer shall file with the county clerk and recorder a notice of cancellation on a form provided for in 15-18-217.

(4) (a) The notice required under subsections (1) and (2) must be in the form required by 15-18-215 and be made by certified mail, return receipt requested, to the ~~current occupant, if any, of the property and to the current occupant, if any, of the property and to each party, other than a utility, listed on a litigation guarantee, provided that the guarantee:~~

(i) has been approved by the insurance commissioner and issued by a licensed title insurance producer;

(ii) was ordered on the property by the person required to give notice; and

(iii) lists the identities and addresses of the parties of record that have an interest or possible claim of an interest in the property designed to disclose all parties of record that would otherwise be necessary to name in a quiet title action.

(b) The address to which the notice must be sent is, for each party, the address disclosed by the records in the office of the county clerk and recorder or in the litigation guarantee and, for the occupant, the street address or other known address of the subject property.

(5) The person required to give notice shall, within the period described in subsection (1), give notice as provided in 7-1-2121 and in the form required by 15-18-215.

(6) The amount of interest and costs continues to accrue until the date of redemption. The total amount of interest and costs that must be paid for redemption must be calculated by the county treasurer as of the date of payment.

(7) Proof of notice must be given as provided in 15-18-216 and must be filed with the county clerk and recorder. An assignee must file proof of notice with the county clerk and recorder within 30 days of the mailing or publishing of the notice. If the county is the possessor of the tax lien, the proof of notice must be filed before the issuance of the tax deed under this chapter. Once filed, the proof of notice is prima facie evidence of the sufficiency of the notice.

(8) A county or any officer of a county may not be held liable for any error of notification."

Section 8. Section 15-18-213, MCA, is amended to read:

"15-18-213. Form of tax deed – prima facie evidence. (1) The form of a tax deed issued under the provisions of this chapter, executed by a county treasurer, must be made as follows:

This deed is made by (name of county treasurer), county treasurer of the county of (name of county), in the state of Montana, to (name of assignee, the assignee's assignee or assignee's agent, high bidder or high bidder's agent, or county that is the possessor of the tax lien, or county that is the possessor of the tax lien), as provided by the laws of the state of Montana:

Whereas, there was assessed for (year) the following real property (description of the property); and

Whereas, the taxes for (year) levied against the property amounted to \$; and

Whereas, the taxes were not paid and a property tax lien for the payment of the taxes was attached by (name of county) and was assigned to (if applicable, name of assignee) on (date, including year) for the sum of \$, which amount included delinquent taxes in the amount of \$, penalties in the amount of \$, interest in the amount of \$, and other costs in the amount of \$; and

Whereas, a tax lien certificate was issued and filed as required by law; and

Whereas, notice was given to required parties in accordance with 15-18-212 or [section 1] that the ~~issuance~~ *issuance or auction* of a tax deed was pending; and

Whereas, the property tax lien has not been redeemed by (name of former owner) or any other person entitled to redeem it.

Now, therefore, I, (treasurer's name), county treasurer of the county of, in the state of Montana, in consideration of the sum of \$ paid, hereby grant to (name of assignee or the assignee's assignee or assignee's agent, high bidder or high bidder's agent or county that is the possessor of the tax lien, or county that is the possessor of the tax lien) all the property situated in County, state of Montana, described in this document.

Witness my hand on this date (date, including year).

.....County Treasurer

.....County

(2) A tax deed executed in the form provided in subsection (1) is prima facie evidence that:

- (a) the property was assessed as required by law;
- (b) the taxes were levied in accordance with law;
- (c) the taxes were not paid when due;
- (d) notice of the pending attachment of a tax lien was given and the tax lien was attached at the proper time and place as provided by law;
- (e) the property was not redeemed, and proper notice of a pending tax deed ~~issuance or auction~~ was made as required by law;
- (f) the person who executed the deed was legally authorized to do so; and
- (g) if the real property was sold to pay delinquent taxes on personal property, the real property belonged to the person liable to pay the personal property tax."

Section 9. Section 15-18-214, MCA, is amended to read:

"15-18-214. Effect of deed. (1) Subject to 15-18-411 and 15-18-413, a deed issued under this chapter conveys to the grantee absolute title to the property described in the deed as of the date of the ~~expiration of the redemption period, free and clear of all liens and encumbrances~~ tax deed, except:

- (a) when the claim is payable after the execution of the deed and:
 - (i) a subsequent property tax lien is attached; or
 - (ii) a lien of any special, rural, local improvement, irrigation, or drainage assessment is levied against the property;
- (b) when the claim is an easement, servitude, covenant, restriction, reservation, or similar burden lawfully imposed on the property; or
- (c) when the land is owned by the United States, this state, or a subdivision of this state.

(2) Under the conditions described in subsection (1), the deed is prima facie evidence of the right of possession accrued as of the date ~~of expiration of the period for redemption or the date upon on~~ which a tax deed was ~~otherwise~~ issued."

Section 10. Section 15-18-215, MCA, is amended to read:

"15-18-215. Form of notice that tax deed may issue. (1) ~~[Section 1/ Section 15-18-212~~ requires that notice be given to all persons considered interested parties and to the current occupant of property that may be lost to a tax deed. The notice must be made as follows ~~for property provided for in [section 1(1)(b)]~~:

NOTICE THAT A TAX DEED MAY BE ISSUED

IF YOU DO NOT RESPOND TO THIS NOTICE, YOU WILL LOSE YOUR PROPERTY.

TO:.....

(Name)

.....
(Address, when unknown, so state)

Pursuant to ~~section 15-18-212~~ *[section 1]*, Montana Code Annotated, NOTICE IS HEREBY GIVEN:

1. As a result of a property tax delinquency, a property tax lien exists on the following described real property in which you may have an interest:

.....
.....

2. The property taxes became delinquent on

3. The property tax lien was attached on

4. The lien was subsequently assigned to (if applicable).

5. As of the date of this notice, the amount of tax due is:

TAXES:

PENALTY:

INTEREST:

COST:

TOTAL:

6. For the property tax lien to be liquidated, the total amount listed in paragraph 5 must be paid by, which is the date that the redemption period expires or expired.

7. If all taxes, penalties, interest, and costs are not paid to the COUNTY TREASURER on or prior to, which is the date the redemption period expires, a tax deed ~~may be issued to the assignee or county that is the possessor of the tax lien on the day following the date that the redemption period expires~~ *auction will be held within 60 days.*

8. *Any surplus funds resulting from the auction will be distributed to interested parties. A notarized claim for surplus funds must be filed with the county treasurer within 30 days of the auction.*

9. The business address and telephone number of the county treasurer who is responsible for issuing the tax deed is: County Treasurer, (Address), (Telephone).

**FURTHER NOTICE FOR THOSE PERSONS LISTED
ABOVE WHOSE ADDRESSES ARE UNKNOWN:**

1. The address of the interested party is unknown.
 2. The published notice meets the legal requirements for notice of a pending tax deed ~~issuance~~ *auction*.
 3. The interested party's rights in the property may be in jeopardy.
- DATED at this (Date).

.....
Signature

IF YOU DO NOT RESPOND TO THIS NOTICE, YOU WILL LOSE YOUR PROPERTY.

(2) Section 15-18-212 requires that notice be given to all persons considered interested parties of property that may be lost to a tax deed. The notice must be made as follows for all property other than property provided for in [section 1(1)(b)]:

NOTICE THAT A TAX DEED MAY BE ISSUED

IF YOU DO NOT RESPOND TO THIS NOTICE, YOU WILL LOSE YOUR PROPERTY.

TO:.....

(Name) (Address, when unknown, so state)

Pursuant to section 15-18-212, Montana Code Annotated, **NOTICE IS HEREBY GIVEN:**

1. As a result of a property tax delinquency, a property tax lien exists on the following described real property in which you may have an interest:

2. The property taxes became delinquent on

3. The property tax lien was attached on

4. The lien was subsequently assigned to (if applicable).

5. As of the date of this notice, the amount of tax due is:

TAXES:

PENALTY:

INTEREST:

COST:

TOTAL:

6. For the property tax lien to be liquidated, the total amount listed in paragraph 5 must be paid by, which is the date that the redemption period expires or expired.

7. If all taxes, penalties, interest, and costs are not paid to the COUNTY TREASURER on or prior to, which is the date the redemption period expires, a tax deed may be issued to the assignee or county that is the possessor of the tax lien on the day following the date that the redemption period expires.

8. The business address and telephone number of the county treasurer who is responsible for issuing the tax deed is: County Treasurer, (Address), (Telephone).

**FURTHER NOTICE FOR THOSE PERSONS LISTED
ABOVE WHOSE ADDRESSES ARE UNKNOWN:**

1. The address of the interested party is unknown.
 2. The published notice meets the legal requirements for notice of a pending tax deed issuance.
 3. The interested party's rights in the property may be in jeopardy.
- DATED at this (Date).

.....
Signature"

Section 11. Section 15-18-216, MCA, is amended to read:

"15-18-216. Form of proof of notice. Section Sections 15-18-212 requires and [section 1] require that proof of notice must be filed with the county clerk. The proof of notice must be made as follows:

PROOF OF NOTICE

I, (Name and Address), acting as or on behalf of the owner of the property tax lien, have complied with the notice requirements of Title 15, chapter 18, MCA, as follows:

1. A "Notice That a Tax Deed May Be Issued" was mailed to the owners, current occupant, and parties, as required by 15-18-212 or [section 1], MCA. A copy of each notice is attached or is on file in the office of the county clerk.

2. The notices were mailed by certified mail, return receipt requested. Copies of the return receipts are attached or are on file in the office of the county clerk.

3. Notice was given by publishing in the newspaper as required by 7-1-2121, which is, on and or posting in the three public places designated by the governing body, which are,, and Proof of publication is attached.

State of

County of

The record was signed before me on (date) by (name(s) of individual(s))

.....

.....
(Signature of notarial officer)

(Official stamp)

.....
Title of officer (if not shown in stamp)"

Section 12. Section 15-18-217, MCA, is amended to read:

"15-18-217. Form of cancellation. The notice of cancellation of an assignment required by 15-18-212 and [section 1] must be made as follows:

I,, the treasurer of County, certify that (name of the assignee or assignee's agent) of (address), purchased a tax lien assignment (assignment certificate no.) on property owned by (name of owner of

record). See legal description attached as exhibit “A”, Tax Receipt No. on (date).

I further certify that pursuant to 15-18-212(3)(a), notice was given to (name of assignee or assignee’s agent) of the notification obligation and that the tax lien will be canceled if the assignee does not comply with provisions of 15-18-212 and [section 1].

I further certify that the treasurer of County has no record of notice by the owner of the tax lien in accordance with 15-18-212(7) or [section 1(5)].

Therefore, noncompliance by the assignee has caused the tax lien to be canceled this (date).

.....

Name of County Treasurer”

Section 13. Section 15-18-411, MCA, is amended to read:

“15-18-411. Action to quiet title to tax deed – notice. (1) (a) In an action brought to set aside or annul any tax deed or to determine the rights of an assignee to real property claimed to have been acquired through tax proceedings or a tax lien assignment, the assignee or the recipient or purchaser of a tax deed pursuant to 15-18-211 or [section 2], upon filing an affidavit, may obtain from the court an order directed to the person claiming to:

- (i) own the property;
- (ii) have any interest in or lien upon the property;
- (iii) have a right to redeem the property; or
- (iv) have rights hostile to the tax title.

(b) The person described in subsections (1)(a)(i) through (1)(a)(iv) is referred to as the true owner.

(c) Except as provided in subsection (1)(d), the order described in subsection (1)(a) may command the true owner to:

- (i) deposit with the court for the use of the assignee:

(A) the amount of all taxes, interest, penalties, and costs that would have accrued if the property had been regularly and legally assessed and taxed as the property of the true owner and was about to be redeemed by the true owner; and

(B) the amount of all sums reasonably paid by the assignee following the order and after 3 years from the date of the attachment of the tax lien to preserve the property or to make improvements on the property while in the assignee’s possession, as the total amount of the taxes, interest, penalties, costs, and improvements is alleged by the plaintiff and as must appear in the order; or

(ii) show cause on a date to be fixed in the order, not exceeding 30 days from the date of the order, why the payment should not be made.

(d) The deposit provided for in subsection (1)(c) may not be required of a person found by the court to be indigent following an examination into the matter by the court upon the request of a true owner claiming to be indigent.

(2) The affidavit must list the name and address of the true owner and whether the owner is in the state of Montana, if known to the plaintiff, or state that the address of the true owner is not known to the plaintiff.

(3) (a) The order must be filed with the county clerk and a copy served personally upon each person shown in the affidavit claiming to be a true owner and whose name and address are reasonably ascertainable.

(b) Jurisdiction is acquired over all other persons by giving a copy of the order to the county treasurer.”

Section 14. Section 15-18-412, MCA, is amended to read:

“15-18-412. Procedure in tax deed quiet title action. (1) Upon the hearing of the order to show cause, the court has jurisdiction to determine the

amount to be deposited and to make an order that the same be paid to the court within a period not exceeding 30 days after the order is made.

(2) (a) Except as provided in subsections (2)(b) and (2)(c), if the amount is not paid within the time fixed by the court, the true owner is considered to have waived any defects in the tax proceedings and any right of redemption. In the event of waiver, the true owner has no claim of any kind against the state, a county that is the possessor of the tax lien, ~~or an assignee, or the recipient or purchaser of a tax deed pursuant to 15-18-211 or [section 2],~~ and a decree must be entered in the action quieting the title of the county, ~~or the assignee, or the recipient or purchaser of a tax deed~~ as against the true owner.

(b) The proceedings are void if the taxes were not delinquent or have been paid.

(c) A deposit is not required if the true owner is found by the court to be indigent following an examination into the matter by the court upon the request of a true owner claiming to be indigent.

(3) If payment is made to the court and the true owner is successful in the action and the tax proceedings are declared void, the amount deposited with the court must be paid to the county that is the possessor of the tax lien, ~~or the assignee, or the recipient or purchaser of the tax deed.~~

(4) If the purported true owner is not successful in the action and the title of the county that is the possessor of the tax lien, ~~or the assignee, or the recipient or purchaser of the tax deed~~ is sustained, the money must be returned to the purported true owner.

(5) In any action brought by a county that is the possessor of the tax lien, ~~or the assignee, or the recipient or purchaser of the tax deed~~ to quiet title, several tracts of land, whether contiguous or noncontiguous or owned by different defendants, may be set forth in one complaint. All persons claiming any title to, interest in, or lien upon any of the premises or any part of the premises may be joined as defendants, even though their claims are independent, are not in common, and do not cover the same tracts. The procedure in the action must follow, as nearly as practicable, the procedure specified in 70-28-101 through 70-28-109.

(6) In the final judgment, the court shall also determine the rights resulting from any additional taxes on the property accruing or being paid by either party during the pendency of the suit.

(7) In the quiet title action, the court has complete jurisdiction to fix the amount of taxes that should have been paid, including penalties, interest, and costs, and to determine all questions necessary in granting full relief, including the power to order the department or any tax officer to make and certify to the court a corrected or new assessment or to do any other act necessary to enable the court to do complete justice. Errors may be reviewed on appeal from the final judgment."

Section 15. Section 15-18-413, MCA, is amended to read:

"15-18-413. Title conveyed by deed – defects. (1) All deeds executed ~~more than 3 years after the applicable attachment of the tax lien more than 3 years after the applicable attachment of the tax lien or pursuant to [section 2]~~ convey to the grantee absolute title to the property described in the deed as of ~~3 years following the date of attachment of the tax lien the date of issuance of the deed.~~

(2) The conveyance includes:

(a) all right, title, interest, estate, lien, claim, and demand of the state of Montana and of the county in and to the property; and

(b) the right, if the tax deed, tax lien attachment, or any of the tax proceedings upon which the deed may be based are attacked and held irregular

or void, to recover the unpaid taxes, interest, penalties, and costs that would accrue if the tax proceedings had been regular and it was desired to redeem the property.

(3) The tax deed is free of all encumbrances except as provided in 15-18-214(1).

(4) A tax deed is prima facie evidence of the right of possession accruing as of the date of the expiration of the redemption period described in 15-18-111 *issuance of the tax deed*.

(5) ~~(a) Subject to subsection (5)(b), if any tax deed or deed purporting to be a tax deed is issued more than 3 years and 30 days after the date of the attachment of the tax lien, the grantee may give notice entitled "Notice of Claim of a Tax Title" as provided in 7-1-2121. The notice must:~~

~~(i) describe all property claimed to have been acquired by a tax deed;~~

~~(ii) contain an estimate of the amount due on the property for delinquent taxes, interest, penalties, and costs;~~

~~(iii) contain a statement that for further specific information, reference must be made to the records in the office of the county treasurer;~~

~~(iv) list the name and address of record of the person in whose name the property was assessed or taxed; and~~

~~(v) contain a statement that demand is made that the true owner shall, within 30 days after the later of service or the first publication of the notice, pay to the county treasurer for use by the claimant the amount of taxes, interest, penalties, and costs as the same appear in the records of the county treasurer to redeem the property or the true owner may bring a suit to quiet the true owner's title or to set aside the tax deed.~~

~~(b) The notice described in subsection (5)(a) must be served on a taxpayer whose name and address are reasonably ascertainable.~~

~~(6) (a) Provided that the statutory requirements for a notice of intended issuance of a tax deed required by 15-18-212 have been complied with and if within the 30-day period the taxes, interest, penalties, and costs are not paid or a quiet title action is not brought, all defects in the tax proceedings and any right of redemption are considered waived. Except as provided in subsection (6)(b), after the 30-day period, the title to the property described in the notice and in the tax deed is valid and binding, irrespective of any irregularities, defects, or omissions in any of the provisions of the laws of Montana regarding the assessment, levying of taxes, or sale of property for taxes, whether or not the irregularities, defects, or omissions could void the proceedings.~~

~~(b) The proceedings in subsection (6)(a) are void if the taxes were not delinquent or have been paid.~~

~~(5) (a) Subject to [section 2] and subsection (5)(b) of this section, if any tax deed or deed purporting to be a tax deed is issued more than 3 years and 30 days after the date of the attachment of the tax lien pursuant to 15-18-211, the grantee may give notice entitled "Notice of Claim of a Tax Title" as provided in 7-1-2121. The notice must:~~

~~(i) describe all property claimed to have been acquired by a tax deed;~~

~~(ii) contain an estimate of the amount due on the property for delinquent taxes, interest, penalties, and costs;~~

~~(iii) contain a statement that for further specific information, reference must be made to the records in the office of the county treasurer;~~

~~(iv) list the name and address of record of the person in whose name the property was assessed or taxed; and~~

~~(v) contain a statement that demand is made that the true owner shall, within 30 days after the later of service or the first publication of the notice, pay to the county treasurer for use by the claimant the amount of taxes, interest,~~

penalties, and costs as the same appear in the records of the county treasurer to redeem the property or the true owner may bring a suit to quiet the true owner's title or to set aside the tax deed.

(b) The notice described in subsection (5)(a) must be served on a taxpayer whose name and address are reasonably ascertainable.

(6) (a) Provided that the statutory requirements for a notice of intended issuance of a tax deed required by 15-18-212 have been complied with and if within the 30-day period the taxes, interest, penalties, and costs are not paid or a quiet title action is not brought, all defects in the tax proceedings and any right of redemption are considered waived. Except as provided in subsection (6)(b), after the 30-day period, the title to the property described in the notice and in the tax deed is valid and binding, irrespective of any irregularities, defects, or omissions in any of the provisions of the laws of Montana regarding the assessment, levying of taxes, or sale of property for taxes, whether or not the irregularities, defects, or omissions could void the proceedings.

(b) The proceedings in subsection (6)(a) are void if the taxes were not delinquent or have been paid."

Section 16. Section 70-9-803, MCA, is amended to read:

"70-9-803. Presumptions of abandonment. (1) Except as provided in subsection (6), property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

(a) traveler's check, 15 years after issuance;

(b) money order, 7 years after issuance;

(c) stock or other equity interest in a business association or financial organization, including a security entitlement under Title 30, chapter 8, 5 years after the earlier of:

(i) the date of the most recent dividend, stock split, or other distribution that was unclaimed by the apparent owner; or

(ii) the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications, or communications to the apparent owner;

(d) debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, 5 years after the date of the most recent interest payment that was unclaimed by the apparent owner;

(e) demand, savings, or time deposit, including a deposit that is automatically renewable, 5 years after the earlier of maturity or the date of the last indication by the owner of interest in the property; however, a deposit that is automatically renewable is considered matured for purposes of this section upon its initial date of maturity unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder;

(f) money or credits owed to a customer as a result of a retail business transaction, 3 years after the obligation accrued;

(g) gift certificate, 3 years after December 31 of the year in which the certificate was sold, but if redeemable in merchandise only, the amount abandoned is considered to be 60% of the certificate's face value. A gift certificate is not presumed abandoned if the gift certificate was sold by a person who in the past fiscal year sold no more than \$200,000 in gift certificates, which amount must be adjusted by November of each year by the inflation factor defined in 15-30-2101. The amount considered abandoned for a person who sells more than the amount that triggers presumption of abandonment is the value of gift certificates greater than that trigger.

(h) amount that is owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, 3 years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;

(i) property distributable by a business association or financial organization in a course of dissolution, 1 year after the property becomes distributable;

(j) property received by a court as proceeds of a class action and not distributed pursuant to the judgment, 1 year after the distribution date;

(k) *except as provided in subsection (1)(q)*, property held by a court, government, governmental subdivision, agency, or instrumentality, 1 year after the property becomes distributable;

(l) wages or other compensation for personal services, 1 year after the compensation becomes payable;

(m) deposit or refund owed to a subscriber by a utility, 1 year after the deposit or refund becomes payable;

(n) property in an individual retirement account, defined benefit plan, or other account or plan that is qualified for tax deferral under the income tax laws of the United States, 3 years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan, or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty;

(o) a patronage refund owed to a member of a rural electric or telephone cooperative organized under Title 35, chapter 18, that is not used by the cooperative for educational purposes, 5 years after the distribution date;

(p) an unclaimed share in a cooperative that is not used for charitable or civic purposes in the community in which the cooperative is located, 5 years after the distribution date; ~~and~~

(q) *surplus funds held by a county treasurer pursuant to [section 3], 5 years; and*

~~(q)(r)~~ all other property, 5 years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

(2) At the time that an interest is presumed abandoned under subsection (1), any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

(3) Property is unclaimed if, for the applicable period set forth in subsection (1), the apparent owner has not communicated in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder with the holder concerning the property or the account in which the property is held and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.

(4) An indication of an owner's interest in property includes:

(a) the presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(b) owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease, or change the amount or type of property held in the account;

(c) the making of a deposit to or withdrawal from an account in a financial organization; and

(d) the payment of a premium with respect to a property interest in an insurance policy; however, the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

(5) Property is payable or distributable for purposes of this part notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment.

(6) The presumption provided in subsection (1) does not apply to:

(a) unclaimed patronage refunds of a rural electric or telephone cooperative if the cooperative uses the refunds exclusively for educational purposes; or

(b) unclaimed shares in a nonutility cooperative if the cooperative uses the shares for charitable or civic purposes in the community in which the cooperative is located."

Section 17. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 15, chapter 18, part 2, and the provisions of Title 15, chapter 18, part 2, apply to [sections 1 through 3].

Section 18. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 19. Effective date. [This act] is effective on passage and approval.

Section 20. Applicability. [This act] applies to tax liens attached or assigned on or after [the effective date of this act].

Approved May 7, 2019

CHAPTER NO. 318

[SB 254]

AN ACT REVISING THE PROCEDURE FOR SELECTING A CHIEF MUNICIPAL COURT JUDGE IN A MULTIJUDGE CITY; AMENDING SECTION 3-6-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3-6-201, MCA, is amended to read:

"3-6-201. Number of judges – election – term of office – chief judge – duties of chief judge – assistant judge. (1) The governing body of a city shall determine by ordinance the number of judges required to operate the municipal court.

(2) A municipal court judge who is not a part-time assistant judge appointed under subsection (6) must be elected at the general election, as provided in 13-1-104(3). The judge's term commences on the first Monday in January following the election. The judge shall hold office for the term of 4 years and until a successor is elected and qualified.

(3) Except as provided in subsection (2), all elections of municipal court judges are governed by the laws applicable to the election of district court judges.

(4) (a) If there is more than one municipal court judge, the judges shall adopt a procedure by which they either:

(i) select a chief municipal court judge at the beginning of each calendar year; or by which

~~the position of chief municipal court judge rotates among the judges in order of seniority at the beginning of each calendar year, with the most senior judge serving during the first year of the rotation;~~

(ii) select a chief municipal court judge for a specific period of time.

(b) If the judges cannot agree, the judge with the most seniority shall serve as the chief municipal court judge.

(5) The chief municipal court judge shall provide for the efficient management of the court, in cooperation with the other judge or judges, if any, and shall:

(a) maintain a central docket of the court's cases;

(b) provide for the distribution of cases from the central docket among the judges, if there is more than one judge, in order to equalize the work of the judges;

(c) request the jurors needed for cases set for jury trial;

(d) if there is more than one judge, temporarily reassign or substitute judges among the departments as necessary to carry out the business of the court; and

(e) supervise and control the court's personnel and the administration of the court.

(6) A municipal court judge may, with the approval of the governing body of the city, appoint a part-time assistant judge, who must have the same qualifications as a judge pro tempore under 3-6-204, to serve during the municipal court judge's term of office. An order by a part-time assistant judge has the same force and effect as an order of a municipal court judge."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2019

CHAPTER NO. 319

[SB 258]

AN ACT REVISING THE REQUIREMENTS FOR ELECTION MATERIAL ATTRIBUTIONS; ALLOWING THE NAME OF A POLITICAL COMMITTEE'S OFFICER TO APPEAR ON AN ATTRIBUTION; AND AMENDING SECTION 13-35-225, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-35-225, MCA, is amended to read:

"13-35-225. Election materials not to be anonymous -- statement of accuracy -- notice -- penalty. (1) All election communications, electioneering communications, and independent expenditures must clearly and conspicuously include the attribution "paid for by" followed by the name and address of the person who made or financed the expenditure for the communication. The attribution must contain:

(a) for election communications or electioneering communications financed by a candidate or a candidate's campaign finances, the name and the address of the candidate or the candidate's campaign;

(b) for election communications, electioneering communications, or independent expenditures financed by a political committee, the name of the committee, the name of the committee treasurer, *deputy treasurer, secretary, vice chairperson, or chairperson, as designated pursuant to 13-37-201(2)(b)*, and the address of the committee or the *named* committee ~~treasurer officer~~; and

(c) for election communications, electioneering communications, or independent expenditures financed by a political committee that is a corporation or a union, the name of the corporation or union, its chief executive officer or equivalent, and the address of the principal place of business.

(2) Communications in a partisan election financed by a candidate or a political committee organized on the candidate's behalf must state the candidate's party affiliation or include the party symbol.

(3) (a) Printed election material described in subsection (1) that includes information about another candidate's voting record must include the following:

(i) a reference to the particular vote or votes upon which the information is based;

(ii) a disclosure of all votes made by the candidate on the same legislative bill or enactment; and

(iii) a statement, signed as provided in subsection (3)(b), that to the best of the signer's knowledge, the statements made about the other candidate's voting record are accurate and true.

(b) The statement required under subsection (3)(a) must be signed:

(i) by the candidate if the election material was prepared for the candidate and includes information about another candidate's voting record; or

(ii) by the person financing the communication or the person's agent if the election material was not prepared for a candidate.

(4) If a document or other article of advertising is too small for the requirements of subsections (1) through (3) to be conveniently included, the candidate responsible for the material or the person financing the communication shall file a copy of the article with the commissioner of political practices, together with the required information or statement, at the time of its public distribution.

(5) If information required in subsections (1) through (3) is omitted or not printed or if the information required by subsection (4) is not filed with the commissioner, upon discovery of or notification about the omission, the candidate responsible for the material or the person financing the communication shall:

(a) file notification of the omission with the commissioner of political practices within 2 business days of the discovery or notification;

(b) bring the material into compliance with subsections (1) through (3) or file the information required by subsection (4) with the commissioner; and

(c) withdraw any noncompliant communication from circulation as soon as reasonably possible.

(6) Whenever the commissioner receives a complaint alleging any violation of subsections (1) through (3), the commissioner shall as soon as practicable assess the merits of the complaint.

(7) (a) If the commissioner determines that the complaint has merit, the commissioner shall notify the complainant and the candidate or political committee of the commissioner's determination. The notice must state that the candidate or political committee shall bring the material into compliance as required under this section:

(i) within 2 business days after receiving the notification if the notification occurs more than 7 days prior to an election; or

(ii) within 24 hours after receiving the notification if the notification occurs 7 days or less prior to an election.

(b) When notifying the candidate or campaign committee under subsection (7)(a), the commissioner shall include a statement that if the candidate or political committee fails to bring the material into compliance as required under this section, the candidate or political committee is subject to a civil penalty pursuant to 13-37-128.”

Approved May 7, 2019

CHAPTER NO. 320

[SB 262]

AN ACT PROVIDING RESTRICTIONS FOR THE COLLECTION OF DNA SAMPLES FROM MINORS; AND PROVIDING EXCEPTIONS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Restrictions for collection of DNA from minor by a peace officer. A minor under 18 years of age may not have a DNA sample collected by a peace officer unless:

(1) the minor was found under 41-5-1502 to have committed a sexual or violent offense;

(2) a parent or legal guardian has provided written permission; or

(3) a court of competent jurisdiction has issued an order for the collection of a DNA sample.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 46, chapter 5, part 4, and the provisions of Title 46, chapter 5, part 4, apply to [section 1].

Approved May 7, 2019

CHAPTER NO. 321

[SB 268]

AN ACT ESTABLISHING THE MONTANA MEDAL OF HONOR HIGHWAY IN GALLATIN COUNTY; DIRECTING THE DEPARTMENT OF TRANSPORTATION TO INSTALL SIGNS AT THE LOCATION AND TO INCLUDE THE HIGHWAY ON THE NEXT UPDATE AND PUBLICATION OF THE STATE MAPS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, numerous states have designated stretches of U.S. Highway 20 as a memorial to recipients of the Medal of Honor; and

WHEREAS, U.S. Highway 20 spans Gallatin County from the Targhee pass to the Wyoming border within Yellowstone National Park; and

WHEREAS, eight Montanans have earned the Medal of Honor.

Be it enacted by the Legislature of the State of Montana:

Section 1. Montana medal of honor highway. (1) There is established the Montana medal of honor highway on the existing U.S. highway 20 within the state boundaries.

(2) The department shall design and install appropriate signs marking the location of the Montana medal of honor highway at the Targhee pass and at the boundary of Yellowstone national park.

(3) (a) The department shall design and install a memorial plaque at a location along the medal of honor highway with the names of the Montanans who have received the medal of honor. These Montanans are Travis Atkins, William Galt, John McLennon, John Moran, Laverne Parrish, Leo Powers, Donald Ruhl, Henry Schauer, and Cornelius Smith.

(b) The legislature intends that the names of future medal of honor recipients be added to the memorial plaque.

(4) Maps that identify roadways in Montana must be updated to include the location of the Montana medal of honor highway when the department updates and publishes the state maps.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 60, chapter 1, part 2, and the provisions of Title 60, chapter 1, part 2, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2019

CHAPTER NO. 322

[SB 271]

AN ACT REVISING LAWS FOR REGULATION OF BOILERS AND STEAM ENGINES; ALLOWING FOR ACCEPTANCE OF INSPECTIONS OF TRACTION ENGINES THAT WERE PERFORMED IN ANOTHER STATE; EXEMPTING CERTAIN HOBBY BOILERS FROM REGULATION; ALLOWING APPLICATION WITHOUT EXAMINATION OF INDIVIDUALS LICENSED IN OTHER STATES; PROVIDING FOR FEES FOR INSPECTIONS OF TRACTION ENGINES; AMENDING SECTIONS 50-74-103, 50-74-209, 50-74-219, 50-74-306, AND 50-74-307, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 50-74-103, MCA, is amended to read:

“50-74-103. Boilers exempted. (1) This chapter ~~shall~~ *does* not apply to boilers under federal control.

(2) The provisions of this chapter requiring inspections, inspection fees, and certificates ~~shall do~~ not apply to:

(a) steam heating boilers operated at not over 15 pounds per square inch gauge pressure in private residences or apartments of six or less families or to hot water heating or supply boilers operated at not over 50 pounds per square inch gauge pressure and temperatures not over 250 degrees F when in private residences or apartments of six or less families; *and*

(b) *boilers constructed or maintained only as a hobby for exhibition, educational, or historical purposes and not for commercial use, if the boilers have an inside diameter of 12 inches or less, or a grate area of 2 square feet or less, and are equipped with a safety valve, a water level indicator, and a pressure gauge.*

(3) ~~No persons~~ *Persons* operating any of the engines or boilers exempted from the operation of this chapter ~~shall may not~~ be required to procure a license from the department.”

Section 2. Section 50-74-209, MCA, is amended to read:

“50-74-209. Required inspection intervals – failure to comply with safety standards – inspections through other states. (1) (a) All manually

fired boilers and all boilers and banks of boilers rated with a total input of 400,000 Btu's an hour or greater must be inspected at least once each year.

(b) All automatically fired boilers rated with an input of less than 400,000 Btu's an hour must be inspected at least once every 2 years, except that an automatically fired boiler in a school, day-care center, hospital, rest home, retirement center, or place of assembly with a capacity for more than 100 persons must be inspected once a year.

(c) Boilers exempt under the provisions of 50-74-103 do not require inspections.

(d) Upon written application, longer inspection intervals may be authorized by the department.

(2) In addition to the inspection required by subsection (1), it is the duty of each inspector to examine at proper times, when in the inspector's opinion an examination is necessary, all boilers that have become unsafe from any cause and to notify the owner or the person using the boilers of any defect and what repairs are necessary to render them safe.

(3) If a boiler is found, upon inspection, to violate safety standards set forth in rules referred to in 50-74-101, the department shall order the owner of the boiler to comply with the standards. An owner who negligently or knowingly fails to comply with an order is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$50 or more than \$100, imprisonment for not more than 60 days in a county detention center, or both.

(4) The department may accept valid inspections for traction engines that have been performed by other states."

Section 3. Section 50-74-219, MCA, is amended to read:

"50-74-219. Fee for inspection. (1) Whenever a department inspector inspects a boiler, the department shall charge and collect a fee prior to issuance of a boiler operating certificate in accordance with the following schedule:

- (a) operating certificate, \$31;
- (b) internal inspection, \$75;
- (c) external inspection:
 - (i) hot water heating and supply, \$35;
 - (ii) steam heating, \$50; and
 - (iii) power boiler *and traction engine*, \$70; and
- (d) special inspection, \$50 an hour plus expenses.

(2) Fees collected under this section must be deposited in the state special revenue fund in an account credited to the department for administration of the boiler inspection program."

Section 4. Section 50-74-306, MCA, is amended to read:

"50-74-306. Traction licenses – application without examination from other states. (1) The licenses named in 50-74-303 do not entitle the holder to operate a traction engine.

(2) A person who is entrusted with the care and management of traction engines or boilers on wheels is required to pass an examination testing the person's competency to operate that class of machinery and procure a traction license.

(3) A person who is entrusted with the care, management, and operation of steam locomotives not addressed by federal regulations is required to pass an examination testing the person's competency to operate that class of machinery and procure a traction license.

(4) The department may issue a license to an individual holding a valid license from another state upon application without examination if the requirements of 50-74-307(2) are met.

(4)(5) A traction license does not entitle its holder to operate any other class of steam machinery.”

Section 5. Section 50-74-307, MCA, is amended to read:

“50-74-307. Requirements for traction licenses. (1) An applicant for a traction engineer’s license:

(1)(a) must be 18 years of age or older;

(2)(b) shall attend a steam school approved by the department by rule and may apply steam school hours to the hour requirement established in subsection (3);

(3)(c) must have at least 50 hours total experience in the operation of steam traction engines; and

(4)(d) shall successfully pass a written examination prescribed by the department.

(2) *The department may issue a license to an individual holding a valid license from another state under 50-74-306 if the individual is from a state that has standards greater than or equal to the state of Montana.”*

Section 6. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2019

CHAPTER NO. 323

[SB 276]

AN ACT GENERALLY REVISING CONDOMINIUM AND TOWNHOUSE LAWS; PROVIDING REQUIREMENTS FOR AND EFFECTS OF A CONVERSION OF A CONDOMINIUM TO A TOWNHOUSE UNDER THE UNITOWNERSHIPACT;REQUIRING THAT NOTICE OF THE CONVERSION AND AN OPPORTUNITY FOR OBJECTION BE GIVEN TO CERTAIN PARTIES; EXEMPTING CERTAIN CONVERSIONS OF A CONDOMINIUM TO A TOWNHOUSE FROM STATE AND LOCAL SUBDIVISION REVIEW; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 70-23-102, 76-3-203, AND 76-4-111, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Conversion of condominium to townhouse. (1) A condominium may be converted to a townhome or townhouse only if:

(a) no other structure occupies the vertical air space above or below the unit’s converted footprint;

(b) all condominium units subject to the recorded condominium declaration are simultaneously converted to townhome or townhouse units; and

(c) all of the unit owners owning units subject to the recorded condominium declaration consent to the conversion by executing and recording an instrument to that effect and adhering to the requirements of this section.

(2) If a condominium unit is affected by a lien, the unit owner shall obtain the lienholder’s written consent to the conversion. If a lienholder does not provide written consent to the conversion, the unit owner may consent on behalf of the lienholder only according to the following provisions:

(a) The unit owner shall deliver by certified mail, return receipt requested, to each affected lienholder or its servicer at the address specified in the recorded trust indenture or mortgage, the address specified in the last recorded assignment of the trust indenture or the mortgage, if any, and the address specified in the last mailed request for loan payment the following documents:

(i) written notification pursuant to [section 2];

(ii) a litigation guarantee, provided that:

(A) the form of the guarantee has been approved by the insurance commissioner and is issued by a licensed title insurance producer;

(B) the guarantee was ordered on the unit by the person required to give notice; and

(C) the guarantee lists the identities and addresses of the parties of record that have an interest in or a possible claim of an interest in the unit designed to disclose all parties of record that would otherwise be necessary to name in a quiet title action;

(iii) the proposed declaration and bylaws for the converted townhomes or townhouses that:

(A) provides that the percentage of the undivided interest of each unit owner in the common area is the same as the percentage of undivided interest owned by the owner in the common elements prior to the conversion; and

(B) provides for the continuation of the prior condominium association of unit owners as a townhouse association of unit owners;

(iv) a surveyed site plan that:

(A) includes the boundaries of the footprint beneath each converted unit and any limited common elements, such as decks, patios, and walkways, that will be included in the conversion; and

(B) depicts the corners and boundaries of the property underlying each converted townhome or townhouse; and

(v) an appraisal of the fair market value of the unit presuming that the unit had been converted to a townhome or townhouse for the purpose of establishing that the fair market value of the unit as a townhome or townhouse is not less than the fair market value of the existing condominium unit.

(b) Within 120 days of the date of the mailing in subsection (2)(a), a lienholder may object only by:

(i) recording its objection with the office of the county clerk and recorder of the county in which the unit is situated; and

(ii) mailing notification of its objection by certified mail, return receipt requested, to the unit owner at the address specified on the notice of intent received pursuant to [section 2].

(c) If a lienholder does not register an objection pursuant to subsection (2)(b), the lienholder is considered to have consented to the conversion after the expiration of the 120-day period.

(3) (a) Except as provided in subsection (3)(b), if the unit subject to conversion is not affected by a lien or if each lienholder has consented or is considered to have consented to the conversion pursuant to this section, the conversion is effective upon the recording of all of the following documents pertaining to each of the condominium units on the property with the office of the county clerk and recorder of the county in which the property is situated:

(i) an affidavit stating that the owner mailed the required notices of intent pursuant to [section 2];

(ii) the declaration and bylaws, which must be substantially the same as the proposed declaration and bylaws specified in subsection (2)(a)(iii);

(iii) the surveyed site plan referenced in subsection (2)(a)(iv); and

(iv) evidence of the written consent of each affected lienholder. Sufficient evidence of written consent may be made through documents including but not limited to deeds, loan modifications, or the instrument reflecting a unit owner's consent on behalf of the lienholder as provided in [section 3].

(b) If a lienholder is considered to have consented pursuant to subsection (2)(c), the unit owner may record the documents within 45 days after the expiration of the 120-day period provided in subsection (2)(b).

Section 2. Notice of intent. (1) In addition to the documents required under [section 1(2)(a)], the notice of intent by a unit owner to a lienholder to convert a condominium to a townhome or townhouse must contain:

- (a) the date;
- (b) the name and address of the borrower;
- (c) the name of the lienholder; and
- (d) the name of the loan servicer if loan payments on a trust indenture or mortgage are collected by a loan servicer.

(2) The notice must be in substantially the following form:

“This notice, made the ... day of,, concerns the trust indenture or mortgage attached and described as follows:

Name of borrower:

Name of lienholder:

Name of loan servicer:

Recording information concerning the trust indenture or mortgage, including the entry number, book number, and page number:

Pursuant to the Unit Ownership Act contained in Title 70, chapter 23, MCA, the undersigned unit owner intends to convert a condominium affected by a mortgage or a trust indenture located at to a townhome or townhouse.

Unless the lienholder within 120 days of the date of this notice records its objection pursuant to [section 1], MCA, with the office of the county clerk and recorder of the county in which the property is situated and mails notification of its objection by certified mail, return receipt requested, to the unit owner at the address specified on this notice, the unit owner will consent to the conversion on behalf of the lienholder for the mortgage or trust indenture described in this notice.

Pursuant to [section 1(2)(a)], MCA, the unit owner has included the following attachments:

- (a) a copy of the recorded trust indenture or mortgage;
- (b) a litigation guarantee;
- (c) the proposed declaration and bylaws for the converted townhome or townhouses;
- (d) a surveyed site plan; and
- (e) an appraisal of the fair market value of each unit presuming that each unit had been converted to a townhome or townhouse.

..... (Signature of unit owner)

..... (Address of unit owner)”

Section 3. Consent by unit owner on behalf of lienholder. The instrument reflecting a unit owner’s consent on behalf of the lienholder to convert a secured property from a condominium to a townhome or townhouse must be in substantially the following form:

“(Unit owner) hereby consents on behalf of (name of lienholder), whose lien is evidenced by a trust indenture or mortgage recorded in County on day of,, in book at page as entry number to the following property in County being converted from a condominium described as to a townhome or townhouse described as

The undersigned unit owner certifies as follows:

(1) In accordance with the requirements of [sections 1 and 2], MCA, the unit owner has delivered to the lienholder a notice of intent by a unit owner to a lienholder to convert a condominium to a townhome or townhouse.

(2) The lienholder has not affirmatively consented to the conversion, but the unit owner did not receive a notice of objection to the conversion from the lienholder within 120 days of the date of the notice of intent to convert

a condominium to a townhome or townhouse as required to object to the conversion by [section 1], MCA.

..... (Signature of unit owner)

..... (Notarization)"

Section 4. Effect of conversion. Regarding a conversion pursuant to [section 1], the following provisions apply:

(1) (a) A townhome or townhouse unit, including the structural elements and land beneath the unit as described in the surveyed site plan in [section 1(2)(a)(iv)], must be considered to be owned in fee simple by the unit owner;

(b) a portion of the land depicted as common area on the surveyed site plan described in [section 1(2)(a)(iv)] must be considered to be owned in common by all of the converted townhome or townhouse unit owners. The percentage of the undivided interest of each unit owner in the common area must be considered to be the same as the percentage of undivided interest owned by the owner in the common elements prior to the conversion.

(c) a lien affecting a townhome or townhouse unit is a lien against the fee simple interest of the unit owner in subsection (1)(a) and the undivided interest in the common area described in subsection (1)(b). The conversion, by itself, may not be considered to have an effect on the existing priorities of any liens concerning the converted townhome or townhouse units.

(2) The owners, lienholders, and title insurers may rely on the amended declaration's legal description of the unit provided by the surveyed site plan in [section 1(2)(a)(iv)] with regard to the future conveyance of individual townhome or townhouse units.

(3) Section 71-1-108 applies to the fee simple title to the land beneath a townhome or townhouse unit acquired by the mortgagor pursuant to the conversion.

(4) Because the amended declaration must provide for the continuation of the association of unit owners pursuant to [section 1(2)(a)(iii)(B)], the unit owners may not be required to form a new association of unit owners.

(5) The townhome or townhouse may not be considered removed from the provisions of Title 70, chapter 23, solely by virtue of the conversion.

(6) If the conversion procedures in [section 1] are followed, a unit owner or lienholder may not bring an action concerning the conversion, including a foreclosure based solely on the conversion, against any party associated with the conversion, including but not limited to the association of unit owners, title insurers, escrow providers, or lienholders. A person who brings an action concerning the conversion is liable for damages and attorney fees and costs to defend the action.

(7) If a foreclosure of a unit is conducted using the original condominium legal description in the trust indenture or mortgage, it will result in the foreclosure of the converted townhome or townhouse.

(8) A conversion does not constitute a removal pursuant to this chapter.

Section 5. Nonapplicability – building codes – zoning regulations. Nothing in [sections 1 through 5] may be interpreted to modify, expand, or abrogate the applicability of state or local building codes or zoning regulations to a condominium, townhome, townhouse, or conversion.

Section 6. Section 70-23-102, MCA, is amended to read:

"70-23-102. Definitions. In this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Association of unit owners" means all the unit owners acting as a group in accordance with the declaration and bylaws.

(2) "Borrower" means a mortgagor, grantor as defined in 71-1-303, or other debtor.

~~(2)~~(3) "Building" means a multiple-unit building or buildings comprising a part of the property.

~~(3)~~(4) "Common elements" means the general common elements and the limited common elements.

~~(4)~~(5) "Common expenses" means:

(a) expenses of administration, maintenance, repair, or replacement of the common elements;

(b) expenses agreed upon as common by all the unit owners; and

(c) expenses declared common by 70-23-610 and 70-23-612 or by the declaration or the bylaws of the particular condominium.

~~(5)~~(6) "Community land trust" means a nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code that holds title to land beneath individually owned housing units for the purpose of preserving affordable housing.

~~(6)~~(7) "Condominium" means the ownership of single units with common elements located on property submitted to the provisions of this chapter. The term does not include a townhome, a townhouse, a community land trust, or a housing unit located on land belonging to a community land trust.

(8) "*Conversion*" means a change in the character of residential real property from one or more parcels of land with attached condominium units to one or more parcels of land with attached townhome or townhouse units without a change to the undivided interest of the unit owners.

~~(7)~~(9) "Declaration" means the instrument by which the property is submitted to the provisions of this chapter.

~~(8)~~(10) "General common elements", unless otherwise provided in a declaration or by consent of all the unit owners, means:

(a) the land on which the building is located, except any portion of the land included in a unit or made a limited common element by the declaration;

(b) the foundations, columns, girders, beams, supports, mainwalls, roofs, halls, corridors, lobbies, stairs, fire escapes, entrances, and exits of the building;

(c) the basements, yards, gardens, parking areas, and outside storage spaces, private pathways, sidewalks, and private roads;

(d) installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, waste disposal, and incinerating;

(e) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use;

(f) the premises for the lodging of janitors or caretakers of the property; and

(g) all other elements of the building necessary or convenient to its existence, maintenance, and safety or normally in common use.

(11) "*Lienholder*" means a person holding a security interest, including a mortgagee, beneficiary of a trust indenture, or other creditor who holds a mortgage, trust indenture, or other instrument that encumbers real property.

~~(9)~~(12) "Limited common elements" means those common elements designated in the declaration or by agreement of all the unit owners as reserved for the use of a certain unit or number of units to the exclusion of the other units.

~~(10)~~(13) "Majority" or "majority of the unit owners", unless otherwise provided in the declaration, means the owners of more than 50% in the aggregate of the undivided ownership interests in the general common elements as the percentage of interest in the element appertaining to each unit is expressed in the declaration. Whenever a percentage of the unit owners is specified, percentage means the percentage in the aggregate of undivided ownership.

(11)(14) "Manager" means the manager, board of managers, or other person in charge of the administration of or managing the property.

(12)(15) "Project" means a real estate condominium project whereby a condominium of two or more units located on property submitted to the provisions of this chapter ~~are~~ *is* offered or proposed to be offered for sale.

(13)(16) "Property" means the land, all buildings, improvements, and structures on the land, and all easements, rights, and appurtenances belonging to the land that are submitted to the provisions of this chapter.

(14)(17) "Recording officer" means the county officer charged with the duty of filing and recording deeds and mortgages or other instruments or documents affecting the title to real property.

(15)(18) "Townhome" or "townhouse" means property that is owned subject to an arrangement under which persons own their own units and hold separate title to the land beneath their units, but under which they may jointly own the common areas and facilities.

(16)(19) "Unit" means a part of the property including one or more rooms occupying one or more floors or a part or parts of the property intended for any type of independent use and with a direct exit to a public street or highway or to a common area or area leading to a public street or highway.

(17)(20) "Unit designation" means the number, letter, or combination of numbers and letters designating a unit in the declaration.

(18)(21) "Unit owner" means the person owning a unit in fee simple absolute individually or as co-owner in any real estate tenancy relationship recognized under the laws of this state. However, for all purposes, including the exercise of voting rights, provided by lease filed with the presiding officer of the association of unit owners, a lessee of a unit must be considered a unit owner."

Section 7. Section 76-3-203, MCA, is amended to read:

"76-3-203. Exemption for certain condominiums and townhouses.

Condominiums, townhomes, ~~or townhouses, or conversions~~, as those terms are defined in 70-23-102, constructed on land subdivided in compliance with parts 5 and 6 of this chapter or on lots within incorporated cities and towns are exempt from the provisions of this chapter if:

(1) the approval of the original subdivision of land expressly contemplated the construction of the condominiums, townhomes, or townhouses and any applicable park dedication requirements in 76-3-621 are complied with; or

(2) the condominium, townhome, or townhouse proposal is in conformance with applicable local zoning regulations when local zoning regulations are in effect."

Section 8. Section 76-4-111, MCA, is amended to read:

"76-4-111. Exemption for certain condominiums, townhomes, and townhouses. (1) Condominiums, townhomes, or townhouses, as those terms are defined in 70-23-102, constructed on land divided in compliance with the Montana Subdivision and Platting Act and this part are exempt from the provisions of this part.

(2) Whenever a parcel of land has previously been reviewed under either department requirements or local health requirements and has received approval for a given number of living units, the construction *or conversion* of the same or a fewer number of condominium units, townhomes, or townhouses on that parcel is not subject to the provisions of this part, provided that no new extension of a public water supply system or extension of a public sewage system is required."

Section 9. Codification instruction. [Sections 1 through 5] are intended to be codified as an integral part of Title 70, chapter 23, and the provisions of Title 70, chapter 23, apply to [sections 1 through 5].

Section 10. Nonapplicability. Nothing in [this act] may be interpreted to modify or expand existing insurance coverage on a condominium unit, townhome, or townhouse.

Approved May 7, 2019

CHAPTER NO. 324

[SB 286]

AN ACT CREATING A PROCEDURE REGARDING MICROCHIP IMPLANTATION; PROHIBITING THE IMPLANTATION OF MICROCHIPS IN EMPLOYEES WITHOUT WRITTEN PERMISSION; REQUIRING REMOVAL OF THE MICROCHIP UPON REQUEST OF THE EMPLOYEE; REQUIRING THE MICROCHIP TO CEASE TRANSMITTING WHEN THE EMPLOYEE LEAVES THE JOB THAT CAUSED THE EMPLOYEE TO BE MICROCHIPPED; PROHIBITING GOVERNMENT FROM REQUIRING MICROCHIPPING; AND PROVIDING DEFINITIONS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 3], the following definitions apply:

(1) “Employee” means a person who works for another for hire and includes independent contractors.

(2) “Employer” means a person or entity that has one or more employees or independent contractors.

(3) “Local government” means a county, consolidated city-county, city, town, township, school district, or other district or local public entity with the authority to spend or receive public funds.

(4) “Microchip” means technology that:

(a) is designed to be surgically implanted in the body of an individual; and

(b) contains a unique identification number and personal information that can be noninvasively retrieved or transmitted with an external scanning device.

(5) “State agency” means a department, board, commission, office, bureau, or other public authority of state government.

Section 2. Employer requirement of microchip implantation prohibited – use with consent authorized. (1) An employer is prohibited from requiring an employee to have a microchip implanted in the employee’s body as a condition of employment.

(2) A microchip may be implanted in an employee’s body at the request of an employer if the employee provides the employer with written consent.

(3) (a) An employee may request the removal of the microchip at any time.

(b) If an employee requests the removal of the microchip, the microchip must be removed within 30 days of the employee’s request.

(4) If an employee receives a microchip at the request of an employer, the employer is required to:

(a) pay all the costs associated with implanting and removing the microchip;

(b) pay all the medical costs incurred by the employee as a result of any bodily injury to the employee caused by the implantation of the microchip or the presence of the microchip in the employee’s body; and

(c) disclose to the employee:
(i) the data that may be maintained on the microchip; and
(ii) how the data that is maintained on the microchip will be used by the employer.

(5) (a) If an employee is terminated from employment for any reason, including voluntarily, the microchip must be removed from the employee's body within 30 days of the employee's termination.

(b) Once the employee terminates from the job that caused the microchip to be implanted, all data transmission from the microchip to the employer must be ceased.

(c) An employee may elect to retain an implanted microchip after the termination of the employee's employment.

(d) If an employee elects to retain an implanted microchip after termination of employment, the employee assumes responsibility for all costs associated with the microchip, and subsection (4) does not apply.

(6) This section does not prohibit an employer from using alternative noninvasive technology that is intended to track the movement of an employee.

Section 3. Government requirement of microchip prohibited. A state agency or local government may not require a person to have a microchip implanted.

Section 4. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 39, chapter 2, and the provisions of Title 39, chapter 2, apply to [sections 1 through 3].

Approved May 7, 2019

CHAPTER NO. 325

[SB 291]

AN ACT REVISING LAWS RELATED ONLY TO VOTING SYSTEMS AND BALLOT FORM; SPECIFYING THAT AN APPROVED VOTER INTERFACE DEVICE WITH ACCESSIBLE VOTING TECHNOLOGY FOR DISABLED ELECTORS MUST BE AVAILABLE AT EVERY POLLING PLACE; SPECIFYING MINIMUM STANDARDS FOR DEVICE APPROVAL BY THE SECRETARY OF STATE; SPECIFYING STANDARDS FOR USE OF THE DEVICE BY COUNTY ELECTION ADMINISTRATORS; AMENDING SECTIONS 13-1-101, 13-12-202, AND 13-17-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Accessible voting technology. (1) The intent of this section is to:

(a) ensure that disabled electors have access to voting technology that allows the electors to cast ballots independently, privately, and securely;

(b) provide that votes cast using accessible voting technology are collected and counted in a manner that preserves secrecy; and

(c) comply with applicable federal and state law concerning accessibility for disabled electors.

(2) County election administrators shall ensure that at least one voter interface device is available at each polling place. Each voter interface device must be set up and located within the polling place in a manner that allows any elector using the device to cast a ballot independently and privately, including the provision of accommodations to provide a physical barrier or other method

to ensure that the screen of the device is blocked from the view of other voters in the polling place.

(3) Subject to subsection (4):

(a) votes on a ballot produced by a voter interface device may be counted manually or using an automatic tabulating system;

(b) ballots counted manually must be counted in accordance with 13-15-206; and

(c) if ballots produced by a voter interface device cannot be processed through an automatic tabulator used in the county and the election administrator does not provide for the ballots to be counted manually, the election administrator may provide for the votes on each ballot produced by the device to be transcribed to the standard ballot form used in the precinct so that the ballots may be processed through an automatic tabulator used in the county.

(4) (a) If the voter interface device produces a ballot form that is distinguishable from the standard ballot form used in the precinct, the county election administrator shall take measures to protect the secrecy of the votes cast by an elector using the device.

(b) Measures to ensure secrecy may provide that votes on a ballot produced by the voter interface device are transcribed to the standard ballot form used in the precinct so that the ballots are indistinguishable from and counted with the other ballots.

(c) Measures must also include encouraging a portion of the nondisabled electors to use the device to cast their ballot.

(5) Any transcription of votes conducted pursuant to this section must be conducted in secret by at least three election officials in substantially the same manner as provided for in 13-13-246.

Section 2. Section 13-1-101, MCA, is amended to read:

“13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) “Active elector” means an elector whose name has not been placed on the inactive list due to failure to respond to confirmation notices pursuant to 13-2-220 or 13-19-313.

(2) “Active list” means a list of active electors maintained pursuant to 13-2-220.

(3) “Anything of value” means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(4) “Application for voter registration” means a voter registration form prescribed by the secretary of state that is completed and signed by an elector, is submitted to the election administrator, and contains voter registration information subject to verification as provided by law.

(5) “Ballot” means a paper ballot counted manually or a paper ballot counted by a machine, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots.

(6) (a) “Ballot issue” or “issue” means a proposal submitted to the people at an election for their approval or rejection, including but not limited to an initiative, referendum, proposed constitutional amendment, recall question, school levy question, bond issue question, or ballot question.

(b) For the purposes of chapters 35 and 37, an issue becomes a “ballot issue” upon certification by the proper official that the legal procedure necessary for its qualification and placement on the ballot has been completed, except that a statewide issue becomes a “ballot issue” upon preparation and transmission by the secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

(7) "Ballot issue committee" means a political committee specifically organized to support or oppose a ballot issue.

(8) "Candidate" means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or appointment as a candidate for public office as required by law;

(b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

(i) solicitation is made;

(ii) contribution is received and retained; or

(iii) expenditure is made; or

(c) an officeholder who is the subject of a recall election.

(9) (a) "Contribution" means:

(i) the receipt by a candidate or a political committee of an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to support or oppose a candidate or a ballot issue;

(ii) an expenditure, including an in-kind expenditure, that is made in coordination with a candidate or ballot issue committee and is reportable by the candidate or ballot issue committee as a contribution;

(iii) the receipt by a political committee of funds transferred from another political committee; or

(iv) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) "Contribution" does not mean services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residences for a candidate or other individual.

(10) "Coordinated", including any variations of the term, means made in cooperation with, in consultation with, at the request of, or with the express prior consent of a candidate or political committee or an agent of a candidate or political committee.

(11) "De minimis act" means an action, contribution, or expenditure that is so small that it does not trigger registration, reporting, disclaimer, or disclosure obligations under Title 13, chapter 35 or 37, or warrant enforcement as a campaign practices violation under Title 13, chapter 37.

(12) "Election" means a general, special, or primary election held pursuant to the requirements of state law, regardless of the time or purpose.

(13) (a) "Election administrator" means, except as provided in subsection (13)(b), the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections not administered by the county, the term means the school district clerk.

(b) As used in chapter 2 regarding voter registration, the term means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties even if the school election is administered by the school district clerk.

(14) (a) "Election communication" means the following forms of communication to support or oppose a candidate or ballot issue:

(i) a paid advertisement broadcast over radio, television, cable, or satellite;

(ii) paid placement of content on the internet or other electronic communication network;

(iii) a paid advertisement published in a newspaper or periodical or on a billboard;

(iv) a mailing; or

(v) printed materials.

(b) The term does not mean:

(i) an activity or communication for the purpose of encouraging individuals to register to vote or to vote, if that activity or communication does not mention or depict a clearly identified candidate or ballot issue;

(ii) a communication that does not support or oppose a candidate or ballot issue;

(iii) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, internet website, or other periodical publication of general circulation;

(iv) a communication by any membership organization or corporation to its members, stockholders, or employees; or

(v) a communication that the commissioner determines by rule is not an election communication.

(15) "Election judge" means a person who is appointed pursuant to Title 13, chapter 4, part 1, to perform duties as specified by law.

(16) (a) "Electioneering communication" means a paid communication that is publicly distributed by radio, television, cable, satellite, internet website, newspaper, periodical, billboard, mail, or any other distribution of printed materials, that is made within 60 days of the initiation of voting in an election, that does not support or oppose a candidate or ballot issue, that can be received by more than 100 recipients in the district voting on the candidate or ballot issue, and that:

(i) refers to one or more clearly identified candidates in that election;

(ii) depicts the name, image, likeness, or voice of one or more clearly identified candidates in that election; or

(iii) refers to a political party, ballot issue, or other question submitted to the voters in that election.

(b) The term does not mean:

(i) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, internet website, or other periodical publication of general circulation unless the facilities are owned or controlled by a candidate or political committee;

(ii) a communication by any membership organization or corporation to its members, stockholders, or employees;

(iii) a commercial communication that depicts a candidate's name, image, likeness, or voice only in the candidate's capacity as owner, operator, or employee of a business that existed prior to the candidacy;

(iv) a communication that constitutes a candidate debate or forum or that solely promotes a candidate debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

(v) a communication that the commissioner determines by rule is not an electioneering communication.

(17) "Elector" means an individual qualified to vote under state law.

(18) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value:

(i) made by a candidate or political committee to support or oppose a candidate or a ballot issue; or

(ii) used or intended for use in making independent expenditures or in producing electioneering communications.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection (9);

(ii) payments by a candidate for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;

(iii) the cost of any bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees.

(19) "Federal election" means an election in even-numbered years in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

(20) "General election" means an election that is held for offices that first appear on a primary election ballot, unless the primary is canceled as authorized by law, and that is held on a date specified in 13-1-104.

(21) "Inactive elector" means an individual who failed to respond to confirmation notices and whose name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

(22) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

(23) (a) "Incidental committee" means a political committee that is not specifically organized or operating for the primary purpose of supporting or opposing candidates or ballot issues but that may incidentally become a political committee by receiving a contribution or making an expenditure.

(b) For the purpose of this subsection (23), the primary purpose is determined by the commissioner by rule and includes criteria such as the allocation of budget, staff, or members' activity or the statement of purpose or goal of the person or individuals that form the committee.

(24) "Independent committee" means a political committee organized for the primary purpose of receiving contributions and making expenditures that is not controlled either directly or indirectly by a candidate and that does not coordinate with a candidate in conjunction with the making of expenditures except pursuant to the limits set forth in 13-37-216(1).

(25) "Independent expenditure" means an expenditure for an election communication to support or oppose a candidate or ballot issue made at any time that is not coordinated with a candidate or ballot issue committee.

(26) "Individual" means a human being.

(27) "Legally registered elector" means an individual whose application for voter registration was accepted, processed, and verified as provided by law.

(28) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by mailing ballots to all active electors.

(29) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, including a political committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (8).

(30) "Place of deposit" means a location designated by the election administrator pursuant to 13-19-307 for a mail ballot election conducted under Title 13, chapter 19.

(31) (a) "Political committee" means a combination of two or more individuals or a person other than an individual who receives a contribution or makes an expenditure:

(i) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination;

(ii) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(iii) to prepare or disseminate an election communication, an electioneering communication, or an independent expenditure.

(b) Political committees include ballot issue committees, incidental committees, independent committees, and political party committees.

(c) A candidate and the candidate's treasurer do not constitute a political committee.

(d) A political committee is not formed when a combination of two or more individuals or a person other than an individual makes an election communication, an electioneering communication, or an independent expenditure of \$250 or less.

(32) "Political party committee" means a political committee formed by a political party organization and includes all county and city central committees.

(33) "Political party organization" means a political organization that:

(a) was represented on the official ballot in either of the two most recent statewide general elections; or

(b) has met the petition requirements provided in Title 13, chapter 10, part 5.

(34) "Political subdivision" means a county, consolidated municipal-county government, municipality, special purpose district, or any other unit of government, except school districts, having authority to hold an election.

(35) "Polling place election" means an election primarily conducted at polling places rather than by mail under the provisions of Title 13, chapter 19.

(36) "Primary" or "primary election" means an election held on a date specified in 13-1-107 to nominate candidates for offices filled at a general election.

(37) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not been verified as provided by law.

(38) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose identity or eligibility has not yet been verified as provided by law.

(39) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(40) "Random-sample audit" means an audit involving a manual count of ballots from designated races and ballot issues in precincts selected through a random process as provided in 13-17-503.

(41) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

(42) "Regular school election" means the school trustee election provided for in 20-20-105(1).

(43) "School election" has the meaning provided in 20-1-101.

(44) "School election filing officer" means the filing officer with whom the declarations for nomination for school district office were filed or with whom the school ballot issue was filed.

(45) "School recount board" means the board authorized pursuant to 20-20-420 to perform recount duties in school elections.

(46) "Signature envelope" means an envelope that contains a secrecy envelope and ballot and that is designed to:

(a) allow election officials, upon examination of the outside of the envelope, to determine that the ballot is being submitted by someone who is in fact a qualified elector and who has not already voted; and

(b) allow it to be used in the United States mail.

(47) "Special election" means an election held on a day other than the day specified for a primary election, general election, or regular school election.

(48) "Special purpose district" means an area with special boundaries created as authorized by law for a specialized and limited purpose.

(49) "Statewide voter registration list" means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

(50) "Support or oppose", including any variations of the term, means:

(a) using express words, including but not limited to "vote", "oppose", "support", "elect", "defeat", or "reject", that call for the nomination, election, or defeat of one or more clearly identified candidates, the election or defeat of one or more political parties, or the passage or defeat of one or more ballot issues submitted to voters in an election; or

(b) otherwise referring to or depicting one or more clearly identified candidates, political parties, or ballot issues in a manner that is susceptible of no reasonable interpretation other than as a call for the nomination, election, or defeat of the candidate in an election, the election or defeat of the political party, or the passage or defeat of the ballot issue or other question submitted to the voters in an election.

(51) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in 13-15-206.

(52) "Voted ballot" means a ballot that is:

(a) deposited in the ballot box at a polling place;

(b) received at the election administrator's office; or

(c) returned to a place of deposit.

(53) "*Voter interface device*" means a voting system that:

(a) is accessible to electors with disabilities;

(b) communicates voting instructions and ballot information to a voter;

(c) allows the voter to select and vote for candidates and issues and to verify and change selections; and

(d) produces a paper ballot that displays electors' choices so the elector can confirm the ballot's accuracy and that may be manually counted.

~~(53)~~(54) "Voting system" or "system" means any machine, device, technology, or equipment used to automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

Section 3. Section 13-12-202, MCA, is amended to read:

"13-12-202. Ballot form and uniformity. (1) The secretary of state shall adopt statewide uniform rules that prescribe the ballot form for each type of ballot used in this state. The rules must conform to the provisions of this title unless the voting system used clearly requires otherwise. At a minimum, the rules must address:

(a) the manner in which each type of ballot may be corrected under 13-12-204;

(b) what provisions must be made on the ballot for write-in candidates;

(c) the size and content of stubs on paper ballots, except as provided in 13-19-106(1);

(d) how unvoted ballots must be handled;

(e) how the number of individuals voting and the number of ballots cast must be recorded; and

(f) the order and arrangement of voting system ballots.

(2) The names of all candidates ~~to that appear on the ballots the face of a ballot must be appear~~ in the same font size and style.

(3) Notwithstanding 13-19-106(1) *and except as provided in [section 1]*, when the stubs are detached, it must be impossible to distinguish any one of the ballots from another ballot for the same office or issue.

(4) The ballots must contain the name of each candidate whose nomination is certified under law for an office and no other names, except that the names of candidates for president and vice president of the United States must appear on the ballot as provided in 13-25-101(5)."

Section 4. Section 13-17-103, MCA, is amended to read:

"13-17-103. Required specifications for voting systems. (1) A voting system may not be approved under 13-17-101 unless the voting system:

- (a) allows an elector to vote in secrecy;
- (b) prevents an elector from voting for any candidate or on any ballot issue more than once;
- (c) prevents an elector from voting on any office or ballot issue for which the elector is not entitled to vote;
- (d) allows an elector to vote only for the candidates of the party selected by the elector in the primary election;
- (e) allows an elector to vote a split ticket in a general election if the elector desires;

(f) allows each valid vote cast to be registered and recorded within the performance standards adopted pursuant to subsection (2) (3);

(g) is protected from tampering for a fraudulent purpose;

(h) prevents an individual from seeing or knowing the number of votes registered for any candidate or on any ballot issue during the progress of voting;

(i) allows write-in voting;

(j) will, if purchased by a jurisdiction within the state, be provided with a guarantee that the training and technical assistance will be provided to election officials under the contract for purchase of the voting system;

(k) uses a paper ballot that allows votes to be manually counted; and

(l) allows auditors to access and monitor any software program while it is running on the system to determine whether the software is running properly.

(2) *A voter interface device may not be approved for use in this state unless:*

(a) *the device meets the electronic security standards adopted by the secretary of state;*

(b) *the device provides accessible voting technology for electors with hearing, vision, speech, or ambulatory impairments;*

(c) *the device meets all requirements specified in subsection (1);*

(d) *the device has been made available for demonstration and use by electors with disabilities in at least one public event held by the secretary of state; and*

(e) *disabled electors have been able to participate in the process of determining whether the system meets accessibility standards.*

(2)(3) To implement the provisions of subsection (1)(f), the secretary of state shall adopt rules setting a benchmark performance standard that must be met in tests by each voting system prior to approval under 13-17-101. The standard must be based on commonly accepted industry standards for readily available technologies."

Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 13, chapter 3, part 2, and the provisions of Title 13, chapter 3, part 2, apply to [section 1].

Section 6. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2019

CHAPTER NO. 326

[SB 317]

AN ACT CREATING A WINTERTIME 10% OVERWEIGHT PERMIT AND A DURATIONAL 10% OVERWEIGHT PERMIT; REQUIRING A FEE TO OBTAIN THE PERMIT; AMENDING SECTION 61-10-125, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-10-125, MCA, is amended to read:

“61-10-125. Other fees. (1) ~~There is charged for~~ For a single trip permit for a load that is over the gross allowable load provided for by the formula in 61-10-107(1) but that does not exceed axle limits set forth in 61-10-107(1), *the department of transportation shall charge for distances traveled:*

- (a) \$10 for distances *up* to and including 100 miles;
- (b) \$30 for distances from 101 to 199 miles; and
- (c) \$50 for distances ~~over~~ 200 miles ~~traveled and over~~.

(2) (a) *Upon application, the department of transportation or its agent under 61-10-121(4) may issue a wintertime permit or a durational permit authorizing the applicant to operate a vehicle, combination of vehicles, load, or object exceeding by up to 10% the maximum weight limits specified in 61-10-106 through 61-10-110.*

(b) (i) *The nonrefundable fee for a wintertime permit is \$50 for each vehicle. A wintertime permit is valid for 30 days or until March 7, whichever is earlier.*

(ii) *The nonrefundable fee for a durational permit is \$150 for each vehicle. A durational permit is valid for the period between December 1 and March 7.*

(2)(3) (a) ~~There is charged~~ *The department of transportation shall charge a fee of:*

(i) \$200 for a term permit for a load that is in excess of the limits set forth in 61-10-107(1) but that does not exceed a total of 5,000 pounds in excess axle weight;

(ii) \$500 for a term permit for a load that is in excess of the limits set forth in 61-10-107(1) but that does not exceed a total of 10,000 pounds in excess axle weight, with no single axle exceeding 5,000 pounds in excess axle weight;

(iii) \$750 for a term permit for a load that is in excess of the limits set forth in 61-10-107(1) but that does not exceed a total of 15,000 pounds in excess axle weight, with no single axle exceeding 5,000 pounds in excess axle weight;

(iv) \$1,000 for a term permit for a load that is in excess of the limits set forth in 61-10-107(1) but that does not exceed a total of 20,000 pounds in excess axle weight, with no single axle exceeding 5,000 pounds in excess axle weight and no tandem axle exceeding 15,000 pounds in excess axle weight;

(v) \$1,500 for a term permit for a load that is in excess of the limits set forth in 61-10-107(1) but that does not exceed a total of 25,000 pounds in excess axle weight, with no axle or axle group exceeding the maximum weight allowed by a weight analysis conducted by the department of transportation;

(vi) \$2,000 for a term permit for a load that is in excess of the limits set forth in 61-10-107(1) but that does not exceed a total of 30,000 pounds in excess axle weight, with no axle or axle group exceeding the maximum weight allowed by a weight analysis conducted by the department of transportation;

(vii) \$3,000 for a term permit for a load that is in excess of the limits set forth in 61-10-107(1) but that does not exceed a total of 35,000 pounds in excess axle weight, with no axle or axle group exceeding the maximum weight allowed by a weight analysis conducted by the department of transportation;

(viii) \$4,000 for a term permit for a load that is in excess of the limits set forth in 61-10-107(1) but that does not exceed a total of 40,000 pounds in excess axle weight, with no axle or axle group exceeding the maximum weight allowed by a weight analysis conducted by the department of transportation.

(b) The fees provided in subsection ~~(2)(a)~~ ~~(3)(a)~~ are annual fees but may be prorated on a quarterly basis and may be paid quarterly, semiannually, or annually. However, if the fee is paid other than annually, there is an additional fee of \$10 each time a fee is paid.

(c) A permit issued under this subsection ~~(2)~~ ~~(3)~~ is valid for a period of no less than 1 calendar quarter and no more than 1 calendar year.

(d) The department of transportation or its agent may not issue a term permit for loads that exceed 10,000 pounds in excess axle weight unless the person applying for the term permit has obtained approval from the department of transportation, through a weight analysis, for the configuration of the vehicle.

~~(3)(4) There is charged~~ *The department of transportation shall charge* for a permit to move a load that exceeds the single axle, tandem axle, or axle group limits set forth in 61-10-107(1) the following fee based upon the sum of excess in axle or axle group weights:

Total Excess Axle Weight (pounds)	Calculated Cost of 25 Miles of Travel (dollars)
5,000.....	3.50
10,000.....	7.00
15,000.....	10.50
20,000.....	14.00
25,000.....	17.50
30,000.....	21.00
35,000.....	24.50
40,000.....	28.00
45,000.....	31.50
50,000.....	35.00
55,000.....	38.50
60,000.....	42.00
65,000.....	45.50
70,000.....	49.00
75,000.....	52.50
80,000.....	56.00
85,000.....	59.50
90,000.....	63.00
95,000.....	66.50
100,000.....	70.00
over 100,000	70.00 + 3.50 per 5,000 lbs. or part of 5,000 lbs. in excess of 100,000 lbs.

~~(4)(5)~~ For purposes of subsection ~~(3)~~ ~~(4)~~:

(a) mileage must be rounded off in units of 25 miles and mileage in excess of a 25-mile increment must be assessed at the next higher 25-mile increment; and

(b) weight must be rounded off in 5,000-pound increments and weight in excess of a 5,000-pound increment must be assessed at the next higher 5,000-pound increment.

(5)(6) A vehicle must be licensed to the maximum allowable weight authorized under 61-10-107 before an overweight permit may be issued.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2019

CHAPTER NO. 327

[SB 319]

AN ACT ALLOWING A VETERAN WHO IS ELIGIBLE FOR A SPECIAL LICENSE PLATE FEE WAIVER TO WAIVE THE FEE FOR ANY OF THE SPECIAL LICENSE PLATES FOR WHICH THE VETERAN QUALIFIES; AMENDING SECTION 61-3-460, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-3-460, MCA, is amended to read:

“61-3-460. Motor vehicle registration fee and veterans’ cemetery fee waivers. (1) Except as otherwise provided in this section, a person eligible under subsection (2) is exempt from the veterans’ cemetery fee provided in 61-3-459 for two sets of special veteran license plates and all motor vehicle registration fees imposed by this chapter for two motor vehicles that are not used for commercial purposes.

(2) The following persons are eligible for the waiver provided in subsection (1):

(a) a veteran who was a prisoner of war who presents official documentation from the U.S. department of defense verifying the veteran’s status, or the veteran’s surviving spouse, if the spouse has not remarried;

(b) a veteran who is currently rated 100% disabled or is paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-connected disability, as verified by official documentation from the U.S. department of veterans affairs, or the veteran’s surviving spouse, if the spouse has not remarried;

(c) a veteran determined by the U.S. department of veterans affairs to be 50% or more disabled because of a service-connected injury and who has been awarded the purple heart, as verified by official documentation from the U.S. department of veterans affairs and the veteran’s military service record issued by the U.S. department of defense, or the veteran’s surviving spouse, if the spouse has not remarried, except that the veteran or the surviving spouse shall pay the veterans’ cemetery fee as provided for in 61-3-459;

(d) the surviving spouse, if the spouse has not remarried, of a military service member killed while on active duty as verified in official documentation issued by the U.S. department of defense; and

(e) the surviving spouse, if the spouse has not remarried, of a military service member or veteran who died of a service-connected injury or disability as determined by and verified in official documentation from the U.S. department of veterans affairs.

(3) *A veteran who meets the eligibility criteria in subsections (2)(a) through (2)(c) may apply the fee waiver provided in subsection (1) to any of the special license plates provided for in 61-3-458(4) as long as the veteran also meets the eligibility criteria for the specific special license plate the veteran requests.”*

Section 2. Effective date. [This act] is effective January 1, 2020.

Approved May 7, 2019

CHAPTER NO. 328

[SB 320]

AN ACT REVISING LAWS GOVERNING ANIMAL WELFARE HEARINGS AND REQUIRING THAT CERTAIN COSTS OF AN ANIMAL'S CARE BE PAID; REVISING HOW A PETITION FOR AN ANIMAL COST OF CARE HEARING MUST BE FILED AND WHAT IT MUST INCLUDE; ALLOWING A COURT TO DETERMINE PLACEMENT OF AN ANIMAL CONSIDERING CERTAIN FACTORS; PROVIDING A PROCESS FOR A COURT TO REQUIRE POSTING OF A BOND OR LIEN TO PAY FOR EXPENSES INCURRED IN CARING FOR AN ANIMAL; REQUIRING THAT AN ANIMAL BE FORFEITED UNDER CERTAIN CIRCUMSTANCES; AND AMENDING SECTION 27-1-434, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 27-1-434, MCA, is amended to read:

"27-1-434. Animal welfare hearing Cost of care of animals seized in animal cruelty and animal fighting cases. (1) When an animal is seized from a person pursuant to an arrest for by a law enforcement officer upon an alleged violation of 45-8-210, 45-8-211, or 45-8-217, the prosecutor may file a petition for an animal welfare a cost of care hearing in district court in the county where the arrest seizure was made.

(2) The petition must contain:

(a) *the authority and purpose of the seizure, including the time, place, and circumstances of the seizure and the purported facts regarding any animal neglect and the current condition of the animal cruelty or forced fighting in violation of 45-8-210, 45-8-211, or 45-8-217;*

(b) *a description of the animal, including its current condition, and any facts demonstrating the animal's extreme significant disease, injury, or suffering; if applicable; and*

(c) *the name and address of the respondent unless the name and address of the respondent are not available to the petitioner after reasonable investigation, at which time the petition must contain the address of the premises where the animal was seized; and*

(d) *an evaluation that supports the animal's significant disease, injury, or suffering from a licensed veterinarian with experience treating the type of animal or animals in question. Livestock seized under this section must be evaluated by a large animal veterinarian in coordination with a state livestock inspector that is considered a law enforcement officer as designated by the department of livestock in 81-1-201.*

(3) *The petitioner shall serve a copy of the petition upon the respondent. If the name and address of the respondent are not available after reasonable investigation, the petition must be conspicuously posted by a law enforcement officer at the premises where the animal was seized.*

~~(3)(4) If the court finds probable cause that the animal exhibits extreme disease, injury, or suffering; Upon receipt of the petition, the court shall set the matter for hearing not more than 10 days after the petition was filed with the clerk of court. Otherwise, the court shall set the matter for hearing not more than 30 days after the petition was filed The court shall notify the respondent in writing of the date and location of the hearing within 5 days of the hearing. If the name and address of the respondent are not available and have not been included in the petition, the notice must be conspicuously posted by a law enforcement officer at the premises where the animal was seized.~~

~~(4) At the hearing, the court may consider the following factors:~~

(a) ~~the propriety of returning the animal to the owner given the alleged facts regarding abuse or neglect;~~

(b) ~~the extent of the animal's disease, injury, or suffering, if applicable;~~

(c) ~~the likelihood of viable treatment of the animal's condition, if applicable, based upon available veterinary testimony; and~~

(d) ~~the availability of funding to provide for the animal's treatment, shelter, and care.~~

(5) Upon consideration of the factors listed in subsection (4), the court may order any of the following:

(a) immediate release of the animal to the owner;

(b) imposition of a bond or security in an amount sufficient to provide for the animal's care for a minimum of 30 days from the date of seizure;

(c) euthanization of severely diseased, injured, or suffering animals; or

(d) retention of the animal in a humane animal treatment shelter.

(6) A hearing pursuant to this section does not constitute an adjudication with regard to charges filed under 45-8-211 or 45-8-217.

(5) *At the hearing, the court shall consider the extent of the animal's disease, injury, or suffering and, no more than 5 days after the hearing, shall determine whether the animal will be:*

(a) *released to the respondent if the court does not find, by a preponderance of evidence submitted, that the animal was subjected to cruelty or forced fighting under 45-8-210, 45-8-211, or 45-8-217; or*

(b) *held and cared for by the county or an animal shelter designated by the county, pending disposition of a criminal proceeding initiated for an alleged violation of 45-8-210, 45-8-211, or 45-8-217.*

(6) (a) *If the court finds, by a preponderance of evidence submitted, that the animal was subjected to cruelty or forced fighting under 45-8-210, 45-8-211, or 45-8-217, the court may not release the animal to the respondent and shall set a renewable bond in an amount sufficient to cover the reasonable expenses expected to be incurred in caring for the animal for a period of 30 days.*

(b) *In setting the amount of bond to be posted, the court shall consider all of the facts and circumstances of the seizure, including but not limited to the need to care for the animal pending disposition of the criminal proceeding, the recommendations of the animal's current caretaker, and the estimated costs of caring for the animal. The court may take into consideration:*

(i) *the respondent's ability to pay for the cost of the animal's care, with the understanding that the ability to pay is not dispositive;*

(ii) *the likelihood that the respondent could care for the animal in the future; and*

(iii) *the respondent's ability to otherwise provide for the animal's care by other means while the animal is in the possession and care of the county.*

(c) *Upon an order of the court that a bond be posted, the amount of funds necessary for 30 days of the animal's care must be posted with the court. Unless the amount is adjusted pursuant to a hearing held as provided in subsection (6)(d), the court shall order the respondent to deposit the same amount every 30 days until final disposition of the criminal proceeding. Required payment dates must be included in the court's order, and the court has discretion to set the bond payment frequency less than 30 days.*

(d) *The respondent may request a hearing no fewer than 5 days before the expiration of the 30-day period, and the court may, upon a motion by a respondent, adjust the amount of reasonable expenses to be provided by the respondent.*

(e) *If the ordered funds are not deposited within 5 days of the payment dates set in the order, the ownership of the animal is forfeited to the county. The*

county has discretion of the animal and shall provide the court with all plans of disposal related to the animal.

(f) Once a bond has been posted in accordance with this section, the entity caring for the animal may draw from the bond the actual costs incurred in caring for the animal from the date of the cost of care hearing to the date of the final disposition of the criminal proceeding.

(g) In lieu of bond, the respondent may submit to the county a lien on real property necessary to cover the estimated costs of care for the duration of the proceedings. The lien must be in a form and manner acceptable to the county and must be presented by an authorized owner or agent of the property encumbered.

(7) (a) Upon final disposition of the criminal proceeding, any remaining funds deposited with the court must be returned to the depositor.

(b) If the respondent is found not guilty of criminal charges in connection with the seized animal, the county shall:

(i) immediately return the animal to the respondent and return the full amount of the bond and release any applicable lien accepted in lieu of bond; or

(ii) pay the respondent the fair market value of the animal at the time of seizure, if ownership of the animal was forfeited to the county because the bond was not paid. Fair market value must be determined by the court after considering any relevant testimony, valuations, or affidavits specifically describing pecuniary loss and replacement value of the loss.

(8) An animal seized from a person for an alleged violation of 45-8-210, 45-8-211, or 45-8-217 may immediately be euthanized if, in the written determination of a licensed veterinarian, the animal is injured or diseased to the extent that it is not likely to recover. If the respondent is found not guilty of criminal charges in connection with a seized animal that was euthanized while in the possession and care of the county, the county shall pay the respondent the fair market value of the animal. The fair market value must be based on the value of the animal at the time of seizure of the animal as established by relevant testimony and valuations.

(9) For the purposes of this section, the following definitions apply:

(a) "Reasonable expenses" means the cost of providing care, including but not limited to food, water, shelter, and necessary veterinary care to an animal. Reasonable expenses do not include costs that arise from disease, injury, or suffering sustained by an animal while in the possession and care of the county.

(b) "Respondent" means the owner or owners of an animal seized by law enforcement upon an alleged violation of 45-8-210, 45-8-211, or 45-8-217."

Approved May 7, 2019

CHAPTER NO. 329

[SB 324]

AN ACT REVISING THE DEFINITION OF "ABUSE" IN THE MONTANA ELDER AND PERSONS WITH DEVELOPMENTAL DISABILITIES ABUSE PREVENTION ACT TO INCLUDE CAUSING PERSONAL DEGRADATION BY PUBLISHING OR DISTRIBUTING CERTAIN PHOTOGRAPHS OR VIDEOS; DEFINING "PERSONAL DEGRADATION"; CREATING A PENALTY FOR CAUSING PERSONAL DEGRADATION; AMENDING SECTIONS 52-3-803 AND 52-3-825, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 52-3-803, MCA, is amended to read:

“52-3-803. Definitions. As used in this part, the following definitions apply:

(1) “Abuse” means:

(a) the infliction of physical or mental injury; or

(b) the deprivation of food, shelter, clothing, or services necessary to maintain the physical or mental health of an older person or a person with a developmental disability without lawful authority. A declaration made pursuant to 50-9-103 constitutes lawful authority.

(c) *the causing of personal degradation of an older person or a person with a developmental disability in a place where the older person or person with a development disability has a reasonable expectation of privacy.*

(2) “Department” means the department of public health and human services provided for in 2-15-2201.

(3) “Exploitation” means:

(a) the unreasonable use of an older person or a person with a developmental disability or of a power of attorney, conservatorship, or guardianship with regard to an older person or a person with a developmental disability in order to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of or interest in the person’s money, assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the older person or person with a developmental disability of the ownership, use, benefit, or possession of or interest in the person’s money, assets, or property;

(b) an act taken by a person who has the trust and confidence of an older person or a person with a developmental disability to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of or interest in the person’s money, assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the older person or person with a developmental disability of the ownership, use, benefit, or possession of or interest in the person’s money, assets, or property;

(c) the unreasonable use of an older person or a person with a developmental disability or of a power of attorney, conservatorship, or guardianship with regard to an older person or a person with a developmental disability done in the course of an offer or sale of insurance or securities in order to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of the person’s money, assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the older person or person with a developmental disability of the ownership, use, benefit, or possession of the person’s money, assets, or property.

(4) “Incapacitated person” has the meaning given in 72-5-101.

(5) “Long-term care facility” means a facility defined in 50-5-101.

(6) “Mental injury” means an identifiable and substantial impairment of a person’s intellectual or psychological functioning or well-being.

(7) “Neglect” means the failure of a person who has assumed legal responsibility or a contractual obligation for caring for an older person or a person with a developmental disability or who has voluntarily assumed responsibility for the person’s care, including an employee of a public or private residential institution, facility, home, or agency, to provide food, shelter, clothing, or services necessary to maintain the physical or mental health of the older person or the person with a developmental disability.

(8) “Older person” means a person who is at least 60 years of age.

(9) "Person with a developmental disability" means a person 18 years of age or older who has a developmental disability, as defined in 53-20-102.

(10) *"Personal degradation" means publication or distribution of a printed or electronic photograph or video of an older person or a person with a developmental disability when the person publishing or distributing intends to demean or humiliate the older person or person with a developmental disability or knows or reasonably should know that the publication or distribution would demean or humiliate a reasonable person. Personal degradation does not include the recording and dissemination of images or video for treatment, diagnosis, regulatory compliance, or law enforcement purposes, as part of an investigation, or in accordance with a facility or program's confidentiality policy and release of information or consent policy.*

~~(10)~~(11) "Physical injury" means death, permanent or temporary disfigurement, or impairment of any bodily organ or function.

~~(11)~~(12) "Sexual abuse" means the commission of sexual assault, sexual intercourse without consent, indecent exposure, deviate sexual conduct, incest, or sexual abuse of children as described in Title 45, chapter 5, part 5, and Title 45, chapter 8, part 2."

Section 2. Section 52-3-825, MCA, is amended to read:

"52-3-825. Penalties. (1) A person who purposely or knowingly fails to make a report required by 52-3-811 or discloses or fails to disclose the contents of a case record or report in violation of 52-3-813 is guilty of an offense and upon conviction is punishable as provided in 46-18-212.

(2) (a) *Except as provided in subsection (2)(c),* a person who purposely or knowingly abuses, sexually abuses, or neglects an older person or a person with a developmental disability is guilty of a felony and shall be imprisoned for a term not to exceed 10 years and be fined an amount not to exceed \$10,000, or both.

(b) (i) *Except as provided in subsection (2)(c),* a person who negligently abuses an older person or a person with a developmental disability is guilty of a misdemeanor and upon a first conviction shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both.

(ii) Upon a second or subsequent conviction of the conduct described in subsection (2)(b)(i), the person is guilty of a felony and shall be imprisoned for a term not to exceed 10 years and be fined an amount not to exceed \$10,000, or both.

(c) (i) *A person who causes personal degradation to an older person or a person with a developmental disability in a place where the older person or person with a developmental disability has a reasonable expectation of privacy is, for a first offense, guilty of a misdemeanor and shall be imprisoned in the county jail for a term not to exceed 6 months or be fined an amount not to exceed \$500, or both;*

(ii) Upon a second or subsequent conviction of the conduct described in subsection (2)(c)(i), the person is guilty of a felony and shall be imprisoned for a term not to exceed 10 years or be fined an amount not to exceed \$10,000, or both.

~~(c)(d)~~ A person with a developmental disability may not be charged under subsection (2)(a) ~~or (2)(b) through (2)(c).~~"

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2019

CHAPTER NO. 330

[SB 326]

AN ACT BANNING CERTAIN CAMPAIGN CONTRIBUTIONS AND EXPENDITURES BY FOREIGN NATIONALS; PROVIDING PENALTIES; AMENDING SECTION 13-37-128, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 3], the following definitions apply:

(1) "Entity" means a partnership, association, limited liability company, joint venture, corporation, or any other legal or commercial organization, or a combination of entities.

(2) "Foreign national" means:

(a) a government of a foreign country;

(b) a political party of a foreign country;

(c) an entity located outside of the United States unless that entity:

(i) is organized under or created under federal law, state law, or the law of another place subject to the jurisdiction of the United States; and

(ii) has its principal place of business within the United States;

(d) an entity that:

(i) is organized under the laws of a foreign country; or

(ii) has its principal place of business in a foreign country; and

(e) an individual who is not lawfully admitted for the privilege of residing permanently in the United States as an immigrant in accordance with immigration laws and who is not:

(i) a citizen of the United States; or

(ii) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

Section 2. Prohibition on foreign national interference in election.

(1) It is unlawful for a foreign national, directly or through an intermediary, to make a disbursement for an electioneering communication, a contribution, or an expenditure, or to make an express or implied promise to make a contribution or an expenditure, in connection with any candidate election.

(2) It is unlawful for a person to solicit, accept, or receive a contribution, expenditure, or disbursement described in subsection (1) from a foreign national.

(3) To the extent that a potential violation of this section also violates 52 U.S.C. 30121 or 11 CFR 110.20, investigation and enforcement of the matter must be referred to the federal election commission. The commissioner or a county attorney may not bring an enforcement action regarding the portion of the matter that also violates 52 U.S.C. 30121 or 11 CFR 110.20.

Section 3. Penalties. A person who violates [section 2] is liable in a civil action pursuant to 13-37-128.

Section 4. Section 13-37-128, MCA, is amended to read:

"13-37-128. Cause of action created. (1) A person who intentionally or negligently violates any of the reporting provisions of this chapter, a provision of 13-35-225, or a provision of Title 13, chapter 35, part 4, is liable in a civil action brought by the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to \$500 or three times the amount of the unlawful contributions or expenditures, whichever is greater.

(2) A person who makes or receives a contribution or expenditure in violation of 13-35-227, 13-35-228, or this chapter or who violates 13-35-226 is liable in a civil action brought by the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to \$500 or three times the amount of the unlawful contribution or expenditure, whichever is greater.

(3) *A person who violates the provisions of [section 2] is liable in a civil action brought by the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to \$500 or three times the amount of the unlawful disbursement, contribution, expenditure, or promise, whichever is greater.*

Section 5. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 6. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 13, chapter 37, and the provisions of Title 13, chapter 37, apply to [sections 1 through 3].

Section 7. Applicability. [This act] applies to disbursements, contributions, expenditures, and promises made on or after [the effective date of this act].

Approved May 7, 2019

CHAPTER NO. 331

[SB 328]

AN ACT AUTHORIZING A BOARD OF COUNTY COMMISSIONERS TO AUTHORIZE A LOCAL ABATEMENT OF THE COAL GROSS PROCEEDS TAX FROM A NEW OR EXPANDING SURFACE COAL MINE; UTILIZING THE SAME ABATEMENT PROVISIONS FOR SURFACE MINING AS UNDERGROUND MINING; AMENDING SECTIONS 15-23-703 AND 15-23-715, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-23-703, MCA, is amended to read:

“15-23-703. Taxation of gross proceeds – taxable value for nontax purposes. (1) (a) The department shall compute from the reported value of coal gross proceeds a tax roll that must be transmitted to the county treasurer on or before September 15 of each year. The department may not levy or assess any mills against coal gross proceeds but shall, subject to subsection (1)(b) and except as provided in subsection (1)(c), levy a tax of 5% against the value of coal as provided in 15-23-701(4). The county treasurer shall give full notice to each coal producer of the taxes due and shall collect the taxes.

(b) If the county grants a tax abatement for production from a new or expanding *surface* or underground mine as provided in 15-23-715, the department shall levy a tax at a rate that would, after providing for payment to the state of the amount attributable to all applicable state mill levies as if the tax rate were 5%, reduce the tax received by county taxing jurisdictions and any school district on the new or expanded production by the percentage amount of the tax abated by the county under 15-23-715.

(c) (i) For tax years beginning after December 31, 2011, the initial tax on coal mined from a new underground coal mine is 2.5% against the value of coal

as provided in 15-23-701(4) for the first 10 years of coal production. After 10 years, coal production from the mine is taxed as provided in subsection (1)(a).

(ii) For tax years beginning on or after January 1, 2011, and ending December 31, 2020, the initial tax rate under subsection (1)(c)(i) applies to coal mined from an existing underground coal mine producing coal from the mine as of December 31, 2010. For tax years beginning after December 31, 2020, coal production is taxed as provided in subsection (1)(a).

(2) For all nontax purposes, the taxable value of the gross proceeds of coal is 45% of the contract sales price as defined in 15-35-102.

(3) (a) Except as provided in subsections (4) and (7) and subject to subsection (3)(b), coal gross proceeds taxes must be allocated to the state, county, and school districts in the same relative proportions as the taxes were distributed in fiscal year 1990.

(b) The county treasurer shall multiply the coal gross proceeds taxes collected in the county under this part by the relative proportions determined for the state, county, and school districts under subsection (3)(a). Those amounts must be distributed as follows:

(i) the state share must be distributed in the relative proportions required by levies for state purposes in the same manner as property taxes were distributed in fiscal year 1990;

(ii) except as provided in subsection (5), the county share must be distributed in the relative proportions required by levies for county purposes, other than an elementary school or high school, in the same manner as property taxes were distributed in the previous fiscal year;

(iii) except as provided in subsection (6), the school districts' share must be distributed in the relative proportions required by levies for school district purposes in the same manner as property taxes were distributed in the previous fiscal year.

(4) If there is a distribution of coal gross proceeds from a new or expanding *surface or* underground mine with a tax abatement as provided under 15-23-715, the county treasurer shall distribute:

(a) the state's share of the coal gross proceeds determined under subsection (1)(b) in the relative proportion required by the appropriate levies for state purposes; and

(b) the county's share and any school district's share of the coal gross proceeds determined under subsection (1)(b) as provided in this section.

(5) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds taxes that would have gone to a taxing unit, as provided in subsection (3)(b)(i), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(a) The county treasurer shall first allocate the coal gross proceeds taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in the previous fiscal year.

(b) If the allocation in subsection (5)(a) exceeds the total budget of a taxing unit, the commissioners may direct the county treasurer to reallocate the excess to any taxing unit within the county.

(6) The board of trustees of an elementary or high school district may reallocate the coal gross proceeds taxes distributed to the district by the county treasurer under the following conditions:

(a) The district shall first allocate the coal gross proceeds taxes to the budgeted funds of the district in the same proportion that all other property tax proceeds were distributed in the district in the previous fiscal year.

(b) If the allocation under subsection (6)(a) exceeds the total budget for a fund, the trustees may reallocate the excess to any budgeted fund of the school district.

(7) Except as provided in subsections (8) and (9), the county treasurer shall credit all taxes collected under this part from coal mines that began production after December 31, 1988, in the relative proportions required by the levies for state, county, and school district purposes in the same manner as property taxes were distributed in the previous fiscal year.

(8) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds under subsection (7) in the same manner as provided in subsection (5).

(9) The board of trustees of an elementary or high school district may reallocate the coal gross proceeds taxes distributed to the district by the county treasurer under subsection (7) in the same manner as provided in subsection (6)."

Section 2. Section 15-23-715, MCA, is amended to read:

"15-23-715. New or expanding underground mines -- tax abatement -- definition. (1) A county may abate taxation under this chapter for production from a new or expanding *surface or* underground coal mine that is taxed at the rate provided in 15-23-703(1)(a) by 50% or less for 5 or 10 years by directing the department to levy the tax at a lower tax rate as provided in 15-23-703(1)(b).

(2) An abatement must be authorized by the governing body of a county. Before an abatement authorization is effective, the school boards of all affected school districts must be notified of the abatement. The authorization must be made by a resolution of the county governing body after a public hearing. The county governing body shall publish notice of the hearing in a newspaper that meets the requirements of 7-1-2121. The notice must be published twice, with at least 6 days separating publications. The first publication may be no more than 30 days prior to the hearing and the last publication must be at least 3 days prior to the hearing.

(3) An abatement authorization may be made for a 5-tax-year period, and upon expiration of that period, it may be authorized for one more 5-tax-year period. The abatement of taxation for the second 5-tax-year period may be 50% or less. An abatement authorization must be made prior to the beginning of the property tax year in which abatement is in effect. The department must be notified of each abatement authorization prior to the beginning of the tax year.

(4) (a) Production from a new *surface or* underground mine is all production from a mine that in the year prior to the tax year in which the first abatement will apply had production of less than 500,000 tons of coal and the production during the course of the abatement period is estimated to be and actually amounts to at least five times the preabatement production amount.

(b) Production from an expanding *surface or* underground mine is that portion of the mine's production that exceeds the average production for the previous 3 years. To qualify for the abatement, the total of the prior average production and the new production may not decrease during the time of the abatement.

(5) *For the purpose of 15-23-703 and this section, "surface mine" means coal mining using any method other than underground mining.*"

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2018.

Approved May 7, 2019

CHAPTER NO. 332

[SB 334]

AN ACT REVISING PROPERTY TAX LEVIES FOR CERTAIN AIRPORTS; PROVIDING THAT AN AIRPORT AUTHORITY IS NOT SUBJECT TO A LOCAL GOVERNMENT MILL LEVY CAP WHEN A MAXIMUM LEVY AMOUNT WAS ESTABLISHED IN A RESOLUTION CREATING THE AIRPORT AUTHORITY; AMENDING SECTION 15-10-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-10-420, MCA, is amended to read:

“15-10-420. Procedure for calculating levy. (1) (a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's newly taxable value, plus one-half of the average rate of inflation for the prior 3 years.

(b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly taxable property.

(3) (a) For purposes of this section, newly taxable property includes:

- (i) annexation of real property and improvements into a taxing unit;
- (ii) construction, expansion, or remodeling of improvements;
- (iii) transfer of property into a taxing unit;
- (iv) subdivision of real property; and
- (v) transfer of property from tax-exempt to taxable status.

(b) Newly taxable property does not include an increase in value that arises because of an increase in the incremental value within a tax increment financing district.

(4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the release of taxable value from the incremental taxable value of a tax increment financing district because of:

- (i) a change in the boundary of a tax increment financing district;
- (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or
- (iii) the termination of a tax increment financing district.

(b) If a tax increment financing district terminates prior to the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment financing district terminates. If a tax increment financing district terminates after the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

(c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current year market value of that property less the previous year market value of that property.

(d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real property that results in the property being taxable as class four property under 15-6-134 or as nonqualified agricultural land as described in 15-6-133(1)(c).

(5) Subject to subsection (8), subsection (1)(a) does not apply to:

(a) school district levies established in Title 20; or

(a) a mill levy imposed for a newly created regional resource authority.

(6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.

(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:

(a) may increase the number of mills to account for a decrease in reimbursements; and

(b) may not increase the number of mills to account for a loss of tax base because of legislative action that is reimbursed under the provisions of 15-1-121(7).

(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-108, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill.

(9) (a) The provisions of subsection (1) do not prevent or restrict:

(i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

(ii) a levy to repay taxes paid under protest as provided in 15-1-402;

(iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

(iv) a levy for the support of a study commission under 7-3-184;

(v) a levy for the support of a newly established regional resource authority;

(vi) the portion that is the amount in excess of the base contribution of a governmental entity's property tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703;

(vii) a levy for reimbursing a county for costs incurred in transferring property records to an adjoining county under 7-2-2807 upon relocation of a county boundary; or

(viii) a levy used to fund the sheriffs' retirement system under 19-7-404(2)(b); or

(ix) a governmental entity from levying mills for the support of an airport authority in existence prior to [the effective date of this act], regardless of the amount of the levy imposed for the support of the airport authority in the past. The levy under this subsection (9)(a)(ix) is limited to the amount in the resolution creating the authority.

(b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.

(10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.

(11) The department may adopt rules to implement this section. The rules may include a method for calculating the percentage of change in valuation for purposes of determining the elimination of property, new improvements, or newly taxable value in a governmental unit.”

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Applicability. [This act] applies to property tax years beginning after December 31, 2019.

Approved May 7, 2019

CHAPTER NO. 333

[SB 337]

AN ACT REVISING THE INCOME TAX CREDIT FOR ALTERNATIVE ENERGY GENERATION; EXTENDING THE AVAILABILITY OF THE INCOME TAX CREDIT FOR INVESTMENT INCOME RELATED TO A COMMERCIAL SYSTEM THAT GENERATES ENERGY THROUGH A HYDROELECTRIC SOURCE THAT PRODUCES 1 MEGAWATT OR MORE WHEN INSTALLED ON DAMS THAT DO NOT PRODUCE POWER; AMENDING SECTION 15-32-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-32-402, MCA, is amended to read:

“15-32-402. Commercial or net metering system investment credit – alternative energy systems. (1) An individual, corporation, partnership, or small business corporation as defined in 15-30-3301 that makes an investment of \$5,000 or more in property that is depreciable under the Internal Revenue Code for a commercial system or a net metering system, as defined in 69-8-103, that is located in Montana, and that generates energy by means of an alternative renewable energy source, ~~as defined in 15-6-225~~, is entitled to a tax credit against taxes imposed by 15-30-2103 or 15-31-121 in an amount equal to 35% of the eligible costs, to be taken as a credit only against taxes due as a consequence of taxable or net income produced by one of the following:

(a) manufacturing plants located in Montana that produce alternative energy generating equipment;

(b) a new business facility or the expanded portion of an existing business facility for which the alternative energy generating equipment supplies, on a direct contract sales basis, the basic energy needed; or

(c) the alternative energy generating equipment in which the investment for which a credit is being claimed was made.

(2) For purposes of determining the amount of the tax credit that may be claimed under subsection (1), eligible costs include only those expenditures that are associated with the purchase, installation, or upgrading of:

(a) generating equipment;

(b) safety devices and storage components;

(c) transmission lines necessary to connect with existing transmission facilities; and

(d) transmission lines necessary to connect directly to the purchaser of the electricity when no other transmission facilities are available.

(3) Eligible costs under subsection (2) must be reduced by the amount of any grants provided by the state or federal government for the system.

(4) *For the purposes of this section, "alternative renewable energy source" has the meaning provided in 15-6-225 but also includes hydroelectric generators that produce 1 megawatt or more and are installed on dams that otherwise do not produce power."*

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2018.

Approved May 7, 2019

CHAPTER NO. 334

[SB 343]

AN ACT GENERALLY REVISING LAWS RELATED TO OPENCUT MINING; CLARIFYING EFFECTIVE AND EXPIRATION DATES FOR PERMITS; REQUIRING LANDOWNERS TO ALLOW ACCESS FOR RECLAMATION; EXTENDING APPLICATION DEADLINES FOR WEATHER OR OTHER FIELD CONDITIONS; REVISING THE BONDING PROCESS; ESTABLISHING FEES; ALLOWING LIMITED BORROW OPERATION OF LESS THAN 15 ACRES; REQUIRING BONDING AND RECLAMATION FOR LIMITED BORROW OPERATIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-38-106, 15-38-113, 82-4-405, 82-4-424, 82-4-425, 82-4-426, 82-4-427, 82-4-431, 82-4-432, 82-4-433, 82-4-434, 82-4-437, AND 82-4-438, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-38-106, MCA, is amended to read:

"15-38-106. Payment of tax -- records -- collection of taxes -- refunds.

(1) The tax imposed by this chapter must be paid by each person to which the tax applies, on or before the due date of the annual statement established in 15-38-105, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax must be paid to the department at the time that the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall, in accordance with the provisions of 17-2-124, deposit the proceeds from the resource indemnity and ground water assessment tax and money deposited pursuant to 82-4-424(3) in the following order:

(a) annually in due course, from the proceeds of the tax to the CERCLA match debt service fund provided in 75-10-622, the amount necessary, as certified by the department of environmental quality, after crediting to the CERCLA match debt service fund amounts transferred from the CERCLA cost recovery account established under 75-10-631, to pay the principal of, premium, if any, and interest during the next fiscal year on bonds or notes issued pursuant to 75-10-623;

(b) \$366,000 of the proceeds from the tax in the ground water assessment account established by 85-2-905;

(c) for the biennium beginning July 1, 2007, \$150,000 of the proceeds from the tax in the water storage state special revenue account established in 85-1-631;

(d) 50% of the remaining proceeds from the tax divided equally between the environmental quality protection fund established in 75-10-704 and the hazardous waste/CERCLA special revenue account established in 75-10-621; and

(e) all remaining proceeds from the tax in the natural resources projects state special revenue account, established in 15-38-302, for the purpose of making grants to be used for mineral development reclamation projects and renewable resource projects.

(3) Each person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(4) The department shall examine the statement and compute the taxes to be imposed, and the amount computed by the department is the tax imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess must be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer.”

Section 2. Section 15-38-113, MCA, is amended to read:

“15-38-113. Exemption from resource indemnity and ground water assessment tax. The following persons are exempt from the resource indemnity and ground water assessment tax:

(1) a person who has paid the license tax on a metal mine under the provisions of Title 15, chapter 37, part 1;

(2) a person who has paid the tax on oil and natural gas production under the provisions of Title 15, chapter 36, part 3;

(3) a person who holds a permit pursuant to Title 82, chapter 4, part 4, and is subject to the *fee fees* provided for in 82-4-437(2) *and* (3); or

(4) a county, city, or town that holds a permit pursuant to Title 82, chapter 4, part 4.”

Section 3. Section 82-4-405, MCA, is amended to read:

“82-4-405. Inapplicability to government. (1) Except as provided in subsection (2), the provisions of this part relating to fees or bonds do not apply to the federal government or its agencies, the state of Montana, counties, cities, or towns.

(2) Counties, cities, and towns are responsible for the *fee fees* required pursuant to 82-4-437(2) *and* (3).”

Section 4. Section 82-4-424, MCA, is amended to read:

“82-4-424. Receipt and expenditure of funds – disposition of penalties and other money. (1) The department may receive any federal funds, state funds, or any other funds for the reclamation of affected land. The department may cause the reclamation work to be done by its employees, by employees of other governmental agencies, by soil conservation districts, or through contracts with qualified persons.

(2) All penalties and other money paid under the provisions of this part, except ~~annual~~ fees *provided for in 82-4-437*, must be deposited in the environmental rehabilitation and response account in the state special revenue fund provided for in 75-1-110. Funds held by the department as bond or as a result of bond forfeiture that are no longer needed for reclamation and for which the department is not able to locate a surety or other person who owns the funds after diligent search must be deposited in the environmental rehabilitation and response account in the state special revenue fund.

~~(3) The department shall deposit 85% of proceeds from annual fees into the opencut fund established in 82-4-438 and transfer 15% of the proceeds from the fees to the department of revenue for distribution in accordance with 15-38-106."~~

Section 5. Section 82-4-425, MCA, is amended to read:

"82-4-425. Inspection of opencut operations. The department or its accredited representatives may enter upon lands subjected to opencut operations at all reasonable times for the purpose of inspection to determine whether the provisions of this part have been complied with. The department shall attempt to provide reasonable notice to a permitted operator when practicable under the circumstances."

Section 6. Section 82-4-426, MCA, is amended to read:

"82-4-426. Reclamation of land on which bond forfeited. In keeping with the provisions of this part, the department ~~may or its agents or contractors may enter and~~ reclaim any affected land with respect to which a bond has been forfeited."

Section 7. Section 82-4-427, MCA, is amended to read:

"82-4-427. Hearing – appeal – venue. (1) (a) Subject to subsections (1)(b) and (1)(c), a person whose interests are or may be adversely affected by a final decision of the department to approve or disapprove a permit application and accompanying material or a permit amendment application and accompanying material under this part is entitled to a hearing before the board if a written request stating the reasons for the appeal is submitted to the board within 30 days of the department's decision.

(b) If an application was noticed publicly as required by this part, to be eligible to file for an appeal a person must have either submitted comments to the department on an application or submitted comments at a public meeting held under 82-4-432.

(c) Subsection (1)(b) does not apply to a person filing for an appeal of an application that was not required to be noticed publicly by this part.

(2) An operator may request a hearing before the board on:

(a) a final decision of the department director pursuant to 82-4-436(4) by submitting a request for a hearing within 15 days of receipt of notice of the director's decision; and

(b) an order of suspension or revocation issued under 82-4-442 by filing a request for hearing within 30 days of receipt of the decision.

(3) The operator or the landowner may request a hearing before the board on a decision on a bond release application *by submitting a written request stating the reasons for the appeal within 30 days of the receipt of the decision.*

(4) The contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, apply to a hearing held under this section.

(5) A petition for judicial review of a board decision made pursuant to this section must be brought in the county in which the permitted activity is proposed to occur or, if mutually agreed upon by both parties in the action, in the first judicial district, Lewis and Clark County. If an activity is proposed to occur in more than one county, the action may be brought in any of the counties in which the activity is proposed to occur.

(6) The petition for judicial review must include the party to whom the permit was issued or the applicant unless otherwise agreed to by the permitholder or applicant. All judicial challenges of permits for projects with a project cost, as determined by the court, of more than \$1 million must have precedence over any civil cause of a different nature pending in that court. If the court determines that the challenge was without merit or was for an improper purpose, such as to harass, to cause unnecessary delay, or to impose

needless or increased cost in litigation, the court may award attorney fees and costs incurred in defending the action.”

Section 8. Section 82-4-431, MCA, is amended to read:

“82-4-431. Permit for mining, processing, and reclamation required.

(1) *Except as provided in [section 14], a permit is required for an operator who:*

(a) conducts an opencut operation that results in the removal of more than 10,000 cubic yards of materials and overburden;

(b) conducts more than one opencut operation where each of the operations results in the removal of less than 10,000 cubic yards of materials and overburden but the operations result in the removal of 10,000 cubic yards or more of materials and overburden in the aggregate; or

(c) removes materials or overburden at a previously mined site where the removal, combined with the amount of previously mined materials and overburden, exceeds 10,000 cubic yards.

(2) Except as provided in or conditioned under subsections (5) and (6), an operator who holds a permit under this part may conduct a limited opencut operation without first securing an additional permit or an amendment to an existing permit if the limited opencut operation meets the following criteria:

(a) the area to be disturbed by the limited opencut operation is located more than 1 mile from the operator’s nearest existing limited opencut operation;

(b) the total amount of materials and overburden removed does not exceed 10,000 cubic yards and the total area from which the materials and overburden are removed does not exceed 5 acres; and

(c) the operator:

(i) submits appropriate site and opencut operation information on a limited opencut operation form provided by the department; and

(ii) within 1 year of the department’s receipt of the limited opencut operation form, salvages all soil from the area to be disturbed, removes the materials, grades the affected land to 3:1 or flatter slopes, blends the graded land into the surrounding topography, replaces an appropriate amount of overburden and all soil, and reclaims to conditions present prior to mining all access roads used for the operation unless the landowner requests in writing that specific roads or portions of the roads remain open. Roads left open at the landowner’s request must be sized to support the use of the road after opencut operations.

(iii) at the first seasonal opportunity, seeds or plants all affected land with vegetative species that meet the requirements of 82-4-434.

(3) At the operator’s request and with department approval, the operator may have up to 1 additional year to perform the reclamation required by subsection (2)(c), provided the operator does not apply to extend or continue the limited opencut operation pursuant to subsection (4).

(4) (a) An operator who commences a limited opencut operation pursuant to subsection (2) may apply for a permit to continue or expand that opencut operation pursuant to the provisions of this subsection (4).

(b) The permit application must be complete within 180 days of the department’s receipt of the limited opencut operation form.

(c) If the complete permit application is acceptable within 1 year of the department’s receipt of the limited opencut operation form, the provisions of subsections (2)(c)(ii) and (2)(c)(iii) do not apply and reclamation must be conducted as prescribed in the permit.

(d) If the complete permit application is not acceptable within 1 year of the department’s receipt of the limited opencut operation form, the application is considered abandoned and void. Starting 3 days after the department notifies the applicant that the application is considered abandoned and void, the

applicant has 180 days to complete the reclamation provided for in subsections (2)(c)(ii) and (2)(c)(iii).

(e) If the permit application is withdrawn by the applicant within 1 year of the department's receipt of the limited opencut operation form, the reclamation provided for in subsections (2)(c)(ii) and (2)(c)(iii) must be completed within 180 days of the date of the withdrawal.

(5) The department may refuse to approve an application for issuance of a permit under subsection (1) or may prohibit the operator from conducting an opencut operation under subsection (2) if, at the time of notification by the operator to the department, the operator has a pattern of violations or is in current violation of this part, rules adopted under this part, or provisions of a permit.

(6) The department may require an additional bond as a condition for the conduct of an opencut operation under subsection (2).

(7) Opencut operations described in subsection (2) may not occur:

(a) in ephemeral, intermittent, or perennial streams;

(b) in an area where the opencut operation will intercept surface water, ground water, or any slope that is steeper than 3:1; or

(c) in any area where mining would be restricted by other laws.

(8) Sand and gravel opencut operations must meet applicable local zoning regulations adopted under Title 76, chapter 2.

(9) *A permit is effective when the department provides written notice to the applicant that the information and materials provided to the department meet the requirements of this part and rules adopted pursuant to this part.*

(10) (a) *Except as provided in subsection (10)(b), a permit issued under this part expires on the reclamation date proposed by the operator and approved by the department.*

(b) *Prior to the expiration of a permit:*

(i) *the operator may file an application to amend the plan of operation to extend the reclamation date pursuant to 82-4-434(4)(a);*

(ii) *the department may amend the plan of operation pursuant to 82-4-436;*

(iii) *the department may revoke the permit pursuant to 82-4-442; or*

(iv) *the operator and the department may agree to terminate the permit upon mutual written consent.*

(11) *The expiration or termination of a permit issued under this part does not relieve an operator from the obligation to conduct reclamation as required by the plan of operation or the liability for costs of reclamation exceeding the amount of the bond."*

Section 9. Section 82-4-432, MCA, is amended to read:

"82-4-432. Application for permit -- contents -- issuance -- amendment. (1) An application for a permit must be made using forms furnished by the department and must contain the following:

(a) the name of the applicant and, if other than the owner of the land, the name and address of the owner;

(b) the type of operation to be conducted;

(c) the estimated volume of overburden and materials to be removed;

(d) the location of the proposed opencut operation by legal description and county accompanied by a map showing the location of the proposed operation sufficient to allow the public to locate the proposed site; and

(e) a statement that the applicant has the legal right to mine the designated materials in the lands described.

(2) The application must be accompanied by:

(a) a bond or security meeting the requirements as set out in this part;

(b) a statement from the local governing body having jurisdiction over the area to be mined certifying that the proposed sand and gravel opencut operation complies with applicable local zoning regulations adopted under Title 76, chapter 2;

(c) a plan of operation that ~~addresses~~ *contains information sufficient to initiate acceptability review by addressing* the requirements of 82-4-434 and rules adopted pursuant to this part related to 82-4-434;

(d) written documentation that the landowner has been consulted about the proposed plan of operation; ~~and~~

(e) *a written agreement between the landowner and the operator authorizing the operator access to the site to perform reclamation if the landowner revokes or otherwise terminates the operator's right to mine;*

~~(e)(f)~~ a list of surface owners of land located within one-half mile of the boundary of the proposed opencut permit area using the owners of record as shown no more than 60 days prior to the submission of an application in the paper or electronic records of the county clerk and recorder for the county where the proposed opencut operation is located; *and*

(g) *documentation of consultation with the state historic preservation office regarding possible archaeological or historical values on the affected land.*

(3) If, prior to applying for a permit, a person notifies the department of the intention to submit an application and requests that the department examine the area to be mined, the department shall examine the area and make recommendations to the person regarding the proposed opencut operation. The person may request a meeting with the department. The department shall hold a meeting if requested.

(4) (a) (i) Except as provided in 75-1-208(4)(b), upon receipt of an application, the department shall, within 5 working days, review the application and notify the person as to whether or not the application is complete. An application is complete if it contains the items listed in subsections (1) and (2). If the department determines that the application is not complete, the department shall notify the applicant in writing and include a detailed identification of information necessary to make the application complete.

(ii) The time limit provided in subsection (4)(a)(i) applies to each submittal of the application until the department determines that the application is complete.

(b) (i) A determination that an application is complete does not ensure that the application is acceptable and does not limit the department's ability to request additional information or inspect the site during the review process.

(ii) Upon determining that an application is complete, the department shall begin reviewing the application for acceptability pursuant to this section.

(iii) The department shall accept public comment throughout the review process.

(c) The department may declare an application abandoned and void if:

(i) the applicant fails to respond to the department's written request for more information within 1 year; and

(ii) the department notifies the applicant of its intent to abandon the application and the applicant fails to provide information within 30 days.

(d) The department shall notify the applicant when an application is complete and post the complete application on the department's website.

(5) Within 15 days after the department sends notice of a complete application to the applicant, the applicant shall provide public notice, which must include:

(a) the name, address, and telephone number of the applicant;

(b) a description of the acreage, the estimated volume of overburden and materials to be removed, the type of materials to be removed, the facilities, the duration of activities, and the access points of the proposed opencut operation;

(c) a legal description of the proposed opencut operation and a map, or directions on how to access a map, showing the location of the proposed opencut operation and immediately surrounding property; and

(d) on a form provided by the department, notification that the application is complete and information on how to request a public meeting pursuant to this section.

(6) To provide public notice, the applicant shall:

(a) publish notice at least twice in a newspaper of general circulation in the locality of the proposed opencut operation. A map is not required in the notice if, in addition to the legal description of the proposed opencut operation, the notice provides an address for the map posted on the department's website and instructions for obtaining a paper copy of the map from an applicant. If the notice does not include a map, the applicant shall promptly provide a paper copy to a requestor.

(b) mail the notice by first-class mail to the board of county commissioners of the county in which the proposed opencut operation is located and to surface owners of land located within one-half mile of the boundary of the proposed opencut permit area using the most current known owners of record as shown in the paper or electronic records of the county clerk and recorder for the county where the proposed opencut operation is located;

(c) post the notice in at least two prominent locations at the site of the proposed opencut operation, including near a public road if possible; and

(d) provide the department with the names and addresses of those notified pursuant to subsection (6)(b).

(7) (a) Except as provided in subsection (7)(b), the department shall accept requests for a public meeting for 45 days after the department sends notice to the applicant of a complete application. Within this period, unless a public meeting is required pursuant to subsection (9), the department shall notify the applicant as to whether or not the application is acceptable pursuant to subsection (10).

(b) If the applicant and the department mutually agree or the applicant submits documentation on a form provided by the department showing that a public meeting will not be required pursuant to subsection (9), the department shall inform the applicant within 30 days of the notice of a complete application as to whether or not the application is acceptable pursuant to subsection (10).

(8) If a public meeting is required pursuant to subsection (9), within 30 days from the closing date of the public meeting request period in subsection (7), the department shall:

(a) hold a meeting; and

(b) notify the applicant as to whether or not the application is acceptable pursuant to subsection (10) or that the application requires an extended review pursuant to 82-4-439.

(9) (a) The department shall hold a public meeting in the area of the proposed opencut operation at the request of:

(i) the applicant; or

(ii) at least 30% of the property owners or 10 property owners, whichever is greater, notified pursuant to this section. For the purposes of this subsection (9)(a)(ii), multiple property owners of the same parcel are to be counted as a single property owner.

(b) To provide notice for a public meeting, the department shall notify by first-class mail or electronically the property owners on the list provided by the

applicant pursuant to this section and the board of county commissioners in the county where the proposed opencut operation is located.

(10) (a) An application is acceptable if it complies with the requirements of subsections (1) and (2) and includes a plan of operation that satisfies the requirements of 82-4-434 and rules adopted pursuant to this part related to 82-4-434. If the department determines that the application is not acceptable, the department shall notify the applicant in writing and include a detailed identification of all deficiencies.

(b) Within 10 working days of receipt of the applicant's response to the identified deficiencies, the department shall review the responses and notify the applicant as to whether or not the application is acceptable. If the application is unacceptable, the department shall notify the applicant in writing and include a detailed identification of the deficiencies.

(c) If the application is acceptable, the department shall issue a permit to the operator that entitles the operator to engage in the opencut operation on the land described in the application.

(11) (a) An operator may amend a permit by submitting an amendment application to the department. Upon receipt of the amendment application, the department shall review it in accordance with the requirements and procedures in this section. If the amendment application is acceptable, the department shall issue an amendment to the original permit.

(b) An application for an amendment is not subject to the public notice or public meeting requirements of this section or an extended review pursuant to 82-4-439 unless it proposes an increase in permitted acreage of 50% or more of the amount of permitted acreage in the current permit.

(c) For amendment applications not subject to the public notice and public meeting requirements of this section, the department shall, within 45 days of notifying the applicant that the application is complete, notify the applicant as to whether or not the application is acceptable pursuant to subsection (10).

(12) (a) *Except as provided in subsection (12)(b), if weather or other field conditions prevent the department from conducting an adequate site inspection to evaluate a permit or amendment application, the time limits provided in subsections (7) and (11) are suspended until the weather or other field conditions allow for an adequate site inspection.*

(b) *Before suspending time limits, the department shall allow the operator to provide the information needed from a site inspection by other means, including but not limited to surveys, photos, videos, or other reports.*

(12)(13) The department shall post a copy of an acceptable permit or amendment on its website."

Section 10. Section 82-4-433, MCA, is amended to read:

"82-4-433. Bond. (1) Before a permit or permit amendment may be issued, a surety bond made payable to the state of Montana and conditioned upon the operator's full compliance with all requirements of this part, the rules adopted under this part, and the permit must be submitted to and approved by the department. The bond must be signed by the applicant as principal and by a good and sufficient corporate surety licensed to do business in the state of Montana. The bond amount must be determined by the department at the cost of reclamation of the affected land by the department. The applicant shall submit a bond that is no less than the amount determined by the department.

(2) (a) For opencut operations on federal land within the state, the department may accept a bond payable to the state of Montana and the federal agency administering the land. The bond must provide at least the same amount of financial guarantee as required by this part.

(b) The bond must provide that the department may forfeit the bond without the concurrence of the federal land management agency. The bond may provide that the federal land management agency may forfeit the bond without the concurrence of the department. Upon forfeiture by either agency, the bond must be payable to the department and may also be payable to the federal land management agency. If the bond is payable to the department and the federal land management agency, the department, before accepting the bond, shall enter into an agreement or memorandum of understanding with the federal land management agency providing for administration of the bond funds in a manner that will allow the department to provide for compliance with the requirements of this part, the rules adopted under this part, and the permit.

(3) In lieu of submitting a surety bond pursuant to subsection (1), the operator may submit cash, a certificate of deposit, a letter of credit in a form acceptable to the department, or a bond with property sureties in an amount equal to that of the required bond on conditions as prescribed in this part. In the discretion of the department, surety bond requirements may be fulfilled by the operator's posting a bond with land and improvements and facilities located on the land as security, in which event a surety may not be required but the department may require that the amount of the bond be adjusted to reimburse the department for foreclosure costs.

(4) The bond or other security must be increased or reduced as provided in this part.

(5) The bond or security remains in effect until the affected land has been reclaimed as provided under the permit and the department has approved the reclamation and released the bond or security. The bond or security may cover only actual affected land and must be increased or reduced to cover only unreclaimed acreages.

(6) If the license of a surety that has issued a bond filed with the department pursuant to this part is suspended or revoked, the operator, within 30 days after receiving notice of the suspension or revocation from the department, shall substitute a good and sufficient bond from another surety licensed to do business in the state or shall submit another type of security pursuant to subsection (3). Upon failure of the operator to make the bond substitution within the 30-day time period, the department shall suspend the permit of the operator to conduct opencut operations upon the land described in the permit until the substitution has been made. If the operator demonstrates in writing that the operator has been pursuing a replacement bond in good faith but additional time is necessary to complete the transaction, the department may grant up to an additional 60 days for the operator to submit a replacement bond before suspending the permit.

(7) Whenever an operator has completed all of the reclamation requirements under the provisions of this part as to any affected land, the operator shall notify the department of the completed requirements and may request bond release. If the department releases the operator from further obligation regarding any affected land, the bond must be reduced proportionately. *The Within 365 days of receiving the bond release request, the* department shall notify the operator and the landowner in writing of the decision on the bond release application.

(8) *If the operator fails to complete reclamation as required, the bond is forfeited. The surety is liable to the state for the bond amount. The operator is liable for the remainder of the reasonable costs to the state of reclaiming the operation.*

(9) (a) *If the bond is canceled by the surety, the operator shall provide a replacement bond to the department within 30 days after receiving notice of*

the cancellation. The department may extend this timeframe if the operator exercised due diligence in attempting to obtain a replacement bond within the time required.

(b) The permit is suspended by operation of law if the operator fails to submit a replacement bond within 30 days or within an extended period provided by the department pursuant to subsection (9)(a).

(c) A suspended permit is reinstated upon department approval of a replacement bond."

Section 11. Section 82-4-434, MCA, is amended to read:

"82-4-434. Plan of operation -- requirements. (1) ~~The department shall immediately submit a plan of operation received in a permit or permit amendment application involving expansion of the permit area to the state historic preservation office for evaluation of possible archaeological or historical values in the area to be mined.~~

(2) The department shall accept a plan of operation if the department finds that the plan complies with the requirements of this part and the rules adopted pursuant to this part and that after the opencut operation is completed, the affected land will be reclaimed to a productive use. Once the plan of operation is accepted by the department, it becomes a part of the permit but is subject to annual review and amendment by the department. Any amendment by the department must comply with the provisions of 82-4-436(2).

(3)(2) The department may not accept a plan of operation unless the plan provides:

(a) that the affected land will be reclaimed for one or more specified uses, including but not limited to *agriculture*, forest, pasture, orchard, cropland, residence, recreation, industry, habitat for wildlife, including food, cover, or water, or other reasonable, practical, and achievable uses;

(b) that whenever the opencut operation results in a need to prevent acid drainage or sedimentation on or in adjoining lands or streams, catchments, ponds, or other reasonable devices to control water drainage and sediment will be constructed and maintained, provided the devices will not interfere with other landowners' rights or contribute to water pollution;

(c) that soil and other suitable overburden will be salvaged and replaced on affected land, when required by the postmining land use, after completion or termination of that particular phase of the opencut operation. The depth of soil and other suitable overburden to be placed on the reclaimed area must be specified in the plan.

(d) that grading will result in a postmining topography conducive to the designated postmining land use;

(e) that waste will be buried on site in a manner that protects water quality and is compatible with the postmining land use or will be disposed of off site in accordance with state laws and rules;

(f) that all access, haul, and other support roads will be located, constructed, and maintained in a manner that controls and minimizes erosion;

(g) that the opencut operation will be conducted to avoid range and wildland fires and spontaneous combustion and that open burning will be conducted in accordance with suitable practices for fire prevention and control. Approval of the plan for fire prevention and control under this part does not relieve the operator of the duty to comply with the air quality permitting and protection requirement of Title 75, chapter 2.

(h) that archaeological and historical values on affected lands will be given appropriate protection;

(i) that except for those postmining land uses that do not require vegetation, each surface area of the mined premises that will be disturbed will be revegetated when its use for the opencut operation is no longer required;

(j) that seeding and planting will be done in a manner to achieve a permanent vegetative cover that is suitable for the postmining land use and that retards erosion;

(k) that reclamation will be as concurrent with the opencut operation as feasible and will be completed within a specified length of time;

(l) that surface water and ground water will be given appropriate protection, consistent with state law, from deterioration of water quality and quantity that may arise as a result of the opencut operation;

(m) that noise and visual impacts on residential areas will be minimized to the degree practicable through berms, vegetation screens, and reasonable limits on hours of operation; and

(n) that any additional procedures, including monitoring, that are necessary, consistent with the purposes of this part, to prevent significant physical harm to the affected land or adjacent land, structures, improvements, or life forms will be implemented.

~~(4)(3)~~ If reclamation according to the plan of operation ~~has not been~~ *is not* completed in the time specified, the department, ~~after 30 days' written notice, shall~~ *may*:

(a) *pursue an administrative order pursuant to 82-4-441;*

(b) *after 30 days' written notice, order the operator to cease mining and, if the operator does not cease, may issue an order to reclaim, a notice of violation, or an order of abatement; or*

(c) ~~may institute an action to enjoin further operation and may sue for damages for breach of the conditions of the permit, for payment of the performance bond, or for both.~~

~~(5)(4)~~ (a) At any time during the term of the permit, the operator may for good reason submit to the department a new plan of operation or amendments to the existing plan, including extensions of time for reclamation.

(b) The department may approve the proposed new plan of operation or amendments to the existing plan if:

(i) the new plan of operation or amendments comply with the requirements of this section; and

(ii) (A) the operator has in good faith conducted opencut operations according to the existing plan of operation; or

(B) it is highly improbable that reclamation will be successful unless the existing plan of operation is replaced or amended.

~~(6)(5)~~ The permit, plan of operation, and amendments accepted by the department are a public record and are open to inspection."

Section 12. Section 82-4-437, MCA, is amended to read:

"82-4-437. Annual report – fee fees. (1) For each opencut operation, the operator shall file an annual report on a form furnished by the department. The report must contain the information and be submitted at times provided in rules of the board.

(2) (a) Except as provided in subsection (2)(b), each opencut operation shall submit with the annual report a fee of ~~2.5~~ 4.5 cents per cubic yard of materials for all operations mined during the period covered by the report.

(b) Opencut operations that mine, extract, or produce bentonite are not subject to the fee in ~~this section~~ *subsection (2)(a)*.

(3) *The department:*

(a) *shall require the operator to pay the following fees:*

(i) \$1,500 for each permit application submitted pursuant to 82-4-432(1); and

(ii) for each amendment application submitted pursuant to 82-4-432(11):

(A) \$750 if the date of the amendment application is 10 years or less from the date of the permit approval; or

(B) \$1,500 if the date of the amendment application is more than 10 years from the date of the permit approval; and

(b) shall adopt rules for applications or responses that are administrative. Fees, if any, for administrative actions identified under this subsection may not exceed \$250.

(4) Pursuant to the provisions of 82-4-441, a person who mines materials without a permit in violation of this part shall submit a report and the fee fees required by ~~subsection~~ subsections (2)(a) and (3)(a)(i) of this section."

Section 13. Section 82-4-438, MCA, is amended to read:

"82-4-438. Opencut fund – use of fund. (1) There is an account in the state special revenue fund established by 17-2-102 to be known as the opencut fund.

(2) There must be deposited in the account ~~85% of the~~ money received from the fee fees established in 82-4-437.

(3) Money in the fund must be spent for the purposes of administering and enforcing this part."

Section 14. Limited borrow operations – notice – limitations – rulemaking – definition. (1) Except as provided in subsection (3)(b), an operator who holds a permit under this part may conduct limited borrow operations without obtaining an additional opencut permit if the limited borrow operation:

(a) operates during hours that are consistent with the hours of the associated project;

(b) except for screens, does not involve material processing on site, including crushers and asphalt plants;

(c) does not occur in ephemeral, intermittent, or perennial streams;

(d) does not intercept surface water or ground water;

(e) is not restricted by federal, state, or local law;

(f) does not occur where 10 or more surface owners are within one-half mile of the exterior boundary of the limited borrow operation; and

(g) is located:

(i) more than 1 mile from all of the operator's existing limited borrow operations and limited opencut operations; and

(ii) within 2.5 miles of right-of-way of the associated public project.

(2) Prior to commencing limited borrow operations, the operator shall submit complete and accurate site and operation information on a form provided by the department to the department including:

(a) a landowner consultation form;

(b) documentation of consultation with the state historic preservation office regarding possible archaeological or historical values on the affected land;

(c) a reclamation bond calculated pursuant to the requirements of 82-4-433;

(d) if applicable, documentation of compliance with Title 76, chapter 22, part 1;

(e) a zoning form from the county or counties where the limited borrow operation is proposed;

(f) results from three soil test pits meeting the soil guideline requirements; and

(g) a \$500 fee.

(3) (a) Within 30 days of receiving the information required by subsection (2), the department shall determine if the information meets the requirements and notify the operator in writing. If the requirements are met, the operator may commence the limited borrow operation upon receipt of the notification.

(b) The department may prohibit a limited borrow operation under this section if, at the time of submission of information required by subsection (2), the operator has a pattern of violations of this part or is in current violation of this part, rules adopted under this part, or provisions of a permit.

(4) Prior to removing borrow materials, the operator shall salvage all the soil from the area to be disturbed.

(5) Prior to completion of the project, the operator shall grade the affected land to 3:1 or flatter slopes, blend the graded land into the surrounding topography, replace an appropriate amount of overburden and all soils, and reclaim to conditions present prior to operations all access roads used for the operation unless the landowner requests in writing that specific roads or portions of roads remain in place. Roads left at the landowner's request must be sized to support the use of the road after operations.

(6) At the first seasonal opportunity, the operator shall seed or plant all land affected by the limited borrow operation in accordance with the requirements of 82-4-434(2)(j).

(7) A borrow source operation must be reclaimed within 2 years of the date the project concludes or is considered concluded by the project owner.

(8) The operator shall request final bond release within two growing seasons after completion of the project.

(9) For the purposes of this section "limited borrow operation" means excavations or grading less than 15 acres of affected land to obtain mixed opencut materials solely for public road or highway construction, repair, maintenance, or replacement as part of a project funded by the state department of transportation or the federal highway administration.

Section 15. Report to environmental quality council. (1) The department of environmental quality shall review laws, rules, and fees for the opencut mining program and solicit suggestions from stakeholders, including suggestions to streamline the permitting process.

(2) Before September 15, 2020, the department shall report the findings of the review and proposed changes to laws, rules, or fees to the environmental quality council established in 5-16-101.

Section 16. Codification instruction. [Section 14] is intended to be codified as an integral part of Title 82, chapter 4, part 3, and the provisions of Title 82, chapter 4, part 3, apply to [section 14].

Section 17. Effective date. [This act] is effective July 1, 2019.

Approved May 7, 2019

CHAPTER NO. 335

[SB 346]

AN ACT GENERALLY REVISING MOTOR VEHICLE LAWS; DEFINING "MANUFACTURER'S SUGGESTED RETAIL PRICE"; ALLOWING ELECTRONIC RENEWAL NOTICE; INCREASING CERTAIN FEES FOR MOTORCYCLES AND QUADRICYCLES; REVISING COMMERCIAL DRIVER RECIPROCITY; REVISING THE DEFINITION OF "MOTOR VEHICLE RECORD"; CONSOLIDATING RULEMAKING AUTHORITY; ALLOWING FOR BIOPTIC LENS RULEMAKING AUTHORITY; AMENDING SECTIONS

15-15-201, 61-3-224, 61-3-312, 61-3-316, 61-3-321, 61-3-332, 61-3-414, 61-3-415, 61-3-423, 61-3-474, 61-3-535, 61-4-203, 61-5-111, 61-5-112, 61-5-118, 61-5-123, 61-5-232, 61-11-102, 61-11-503, 61-12-502, AND 61-13-103, MCA; REPEALING SECTIONS 61-3-315, 61-3-506, 61-4-532, 61-5-125, AND 61-11-516, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-15-201, MCA, is amended to read:

“15-15-201. Motor vehicle tax appeals – payment and protest of local option taxes or fees in lieu of tax on motor vehicles. (1) (a) A taxpayer who seeks to appeal the imposition of local option taxes on light vehicles or fees in lieu of tax assessed against a motor vehicle and imposed by the department of justice under authority of 15-8-202 shall file a written application for the appeal not later than 30 days after receipt of the mail renewal notice from the department as provided in 61-3-535. The application must be on a form prescribed by the department of justice in consultation with the state tax appeal board.

(b) The application must include a specific explanation of the basis for the taxpayer’s appeal. The basis for appeal must be related to the factors to be considered and applied by the department of justice under 61-3-503; ~~61-3-506;~~ and 61-3-529 *and established by the department’s rulemaking authority in [section 22]*.

(2) (a) The treasurer of the county or municipality is not required to deposit local option vehicle taxes or fees in lieu of tax on a motor vehicle paid under protest in the special fund designated as a protest fund as required for property taxes under 15-1-402. The taxes or fees paid under protest may be reported and distributed in the same manner as those received without protest.

(b) If a refund is payable as a result of the taxpayer prevailing in a tax appeal or court proceeding concerning the protested motor vehicle taxes or fees, a refund may be made in accordance with 15-16-603.

(3) (a) A motor vehicle tax appeal may be heard by the county tax appeal board during its next regularly scheduled session if the application for the appeal was filed by December 1. If during its current session, a county tax appeal board refuses or fails to hear a taxpayer’s application that was timely filed by December 1, then the taxpayer’s application is considered to be granted on the day following the board’s final meeting for that year.

(b) A motor vehicle tax appeal filed after December 1 may be held over by the board to a session in the following year. If a taxpayer’s application that was timely filed after December 1 of the current session of the county tax appeal board is held over to a session in the following year and if the county tax appeal board refuses or fails to hear the application during the following session, then the application is considered to be granted on the day following the board’s final meeting for that year.”

Section 2. Section 61-3-224, MCA, is amended to read:

“61-3-224. Temporary registration permit – authority to adopt rules – issuance – placement – fees. (1) ~~The department may adopt rules governing the issuance of temporary registration permits. The rules must specify the purposes for which a temporary registration permit may be issued, including but not limited to issuance to:~~

~~(a) a Montana resident who acquires a new or used motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for operation of the vehicle or vessel prior to titling and registration of the vehicle or vessel under this chapter;~~

~~(b) the owner of a salvage vehicle or a vehicle requiring a state-assigned vehicle identification number in order to move the vehicle to and from a designated inspection site prior to applying for a new certificate of title under 61-3-107 or 61-3-212;~~

~~(c) the owner of a motor vehicle, trailer, semitrailer, or pole trailer registered in this state for operation of the vehicle while awaiting production and receipt of special or duplicate license plates ordered for the vehicle under this chapter;~~

~~(d) a nonresident of this state who acquires a motor vehicle, trailer, semitrailer, or pole trailer in this state for operation of the vehicle prior to its titling and registration under the laws of the nonresident's jurisdiction of residence;~~

~~(e) a dealer licensed in another state who brings a motor vehicle or trailer designed and used to apply fertilizer to agricultural lands into the state for special demonstration in this state;~~

~~(f) a financial institution located in Montana for a prospective purchaser to demonstrate a motor vehicle that the financial institution has obtained following repossession;~~

~~(g) an insurer or its agent to move a motor vehicle or trailer to auction following acquisition of the vehicle by the insurer as a result of the settlement of an insurance claim;~~

~~(h) a nonresident owner to temporarily operate a quadricycle or motorcycle designed for off-road recreational use on the highways of this state when the quadricycle or motorcycle designed for off-road recreational use is equipped for use on the highways as prescribed in chapter 9 but the quadricycle or motorcycle designed for off-road recreational use is not registered or is only registered for off-road use in the nonresident's home state; or~~

~~(i) a new owner of a motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for which the new owner cannot, due to circumstances beyond the new owner's control, surrender a previously assigned certificate of title.~~

~~(2)(1)~~ (a) The department, an authorized agent, or a county treasurer may issue a temporary registration permit for any purpose authorized under the rules adopted by the department.

(b) An authorized agent or a county treasurer may issue a temporary registration permit without use of the department-approved electronic interface only if authorized by the department.

~~(3)(2)~~ A person, using a department-approved electronic interface, may issue a temporary registration permit for any purpose authorized under the rules adopted by the department.

~~(4)(3)~~ A temporary registration permit issued under this section must contain the following information:

(a) a temporary plate number as prescribed by the department;

(b) the expiration date of the temporary registration permit; and

(c) if required by the department, a description of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile, including year, make, model, and vehicle identification number, the name of the person from whom ownership of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile was transferred, the name, mailing address, and residence address of the person to whom ownership of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile has been transferred, and the date of issuance.

(5)(4) A temporary registration permit for:

(a) a motor vehicle, trailer, semitrailer, or pole trailer must be plainly visible and firmly attached to the rear exterior of the vehicle where a license plate is required to be displayed; and

(b) a motorboat, a sailboat that is 12 feet in length or longer, a snowmobile, or an off-highway vehicle must be plainly visible and firmly attached to the vehicle or vessel.

(6)(5) (a) Except as provided in 61-3-431 and subsections (6)(b) (5)(b) and (6)(c) (5)(c) of this section, a \$19.50 fee is imposed upon issuance of a temporary registration permit by the department, an authorized agent, or a county treasurer. The fee must be paid by the owner of the vehicle or vessel and collected by the department, the authorized agent, or a county treasurer upon issuance of the temporary registration permit.

(b) Except as provided in 61-3-431, a fee of \$24.50 is imposed and must be paid upon issuance of a temporary registration permit by:

(i) the department, an authorized agent, or a county treasurer to a nonresident of this state who acquires a vehicle or vessel in this state or who registers for temporary use in this state a quadricycle or motorcycle designed for off-road recreational use; or

(ii) a person who issued a temporary registration permit using a department-approved electronic interface.

(c) A fee of \$24 is imposed and must be paid upon issuance of a temporary registration permit for a 90-day temporary registration permit as provided in 61-3-303(3)(b).

(7)(6) The fees imposed under this section, upon collection, must be forwarded to the state and deposited as follows:

(a) \$16.50 from each permit fee collected pursuant to subsection (6) (5) in the state special revenue account established in 44-10-204; and

(b) the remainder in the motor vehicle electronic commerce operating account provided for in 61-3-118.

(8)(7) If a temporary registration permit is issued under this section to a person to whom ownership of a vehicle or vessel has been transferred, the permitholder shall title and register the vehicle or vessel in this or another jurisdiction before the ownership of the vehicle or vessel may be transferred to another person."

Section 3. Section 61-3-312, MCA, is amended to read:

"61-3-312. Renewal of registration – exceptions – grace period.

(1) Except as provided in 61-3-313 and 61-3-721, the registration of a motor vehicle under this chapter must be renewed on or before the last day of the month of the motor vehicle's registration period following the expiration of the motor vehicle's registration.

(2) A person may renew a motor vehicle's registration by submitting full payment for the fees or taxes required under 61-3-303 and 61-3-321(13) to the department, an authorized agent, or a county treasurer in any county of this state.

(3) The department, an authorized agent, or a county treasurer shall use the online motor vehicle liability insurance verification system provided in 61-6-157 to verify proof of compliance with 61-6-301.

(4) ~~Except as provided in 61-3-315, the~~ The registration period originally assigned under 61-3-311 must be retained and the duration of the renewed registration is determined in accordance with 61-3-311. A registration receipt is valid for the registration period for which it is issued.

(5) The owner of a motor vehicle subject to registration renewal under the provisions of this section is considered to have renewed the motor vehicle's

registration in a timely manner if the owner submits full payment for the required fees or taxes, as prescribed in the mail renewal notice from the department, to the department, an authorized agent, or a county treasurer on or before the last day of the month of the motor vehicle's registration period.

(6) The department, an authorized agent, or a county treasurer may not renew the registration of a motor vehicle for which ownership has been transferred and that was originally registered without being titled under the provisions of 61-3-303(3)(b) unless:

(a) the previously issued certificate of title has been surrendered to the department, an authorized agent, or the county treasurer and the process for issuing a certificate of title has been completed; or

(b) the person to whom ownership of the motor vehicle has been transferred presents an affidavit and bond in support of the application for a certificate of title as permitted in 61-3-208."

Section 4. Section 61-3-316, MCA, is amended to read:

"61-3-316. New registrations. Except as provided in 61-3-311, a motor vehicle that is registered for the first time in this state must be assigned a registration period corresponding to when the motor vehicle is first registered in this state. Except as permitted in ~~61-3-315~~, 61-3-318, ~~and or~~ 61-3-324, the registration period for a motor vehicle must remain the same from year to year."

Section 5. Section 61-3-321, MCA, is amended to read:

"61-3-321. Registration fees of vehicles and vessels -- certain vehicles exempt from registration fees -- disposition of fees -- definition.

(1) Except as otherwise provided in this section, registration fees must be paid upon registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers, semitrailers, and pole trailers as provided in subsections (2) through (20).

(2) (a) Except as provided in subsection (2)(b), unless a light vehicle is permanently registered under 61-3-562, the annual registration fee for light vehicles, trucks, and buses that weigh 1 ton or less and for logging trucks that weigh 1 ton or less is as follows:

- (i) if the vehicle is 4 or less years old, \$217;
- (ii) if the vehicle is 5 through 10 years old, \$87; and
- (iii) if the vehicle is 11 or more years old, \$28.

(b) For a light vehicle with a manufacturer's suggested retail price of more than \$150,000 that is 10 years old or less, the annual registration fee is the amount provided for in subsection (2)(a) plus \$825.

(3) (a) Except as provided in ~~subsection subsections (3)(b) and (15)~~, the one-time registration fee based on the declared weight of a trailer, semitrailer, or pole trailer is as follows:

- (i) if the declared weight is less than 6,000 pounds, \$61.25; or
- (ii) if the declared weight is 6,000 pounds or more, \$148.25.

~~(b) If For a trailer, semitrailer, or pole trailer that is registered under 61-3-701, the fees required in subsection (3)(a) must be paid annually the annual registration fee based on the declared weight is as follows:~~

- ~~(i) if the declared weight is less than 6,000 pounds, \$30; or~~
- ~~(ii) if the declared weight is 6,000 pounds or more, \$60.~~

(4) Except as provided in subsection (15), the one-time registration fee for motor vehicles owned and operated solely as collector's items pursuant to 61-3-411, based on the weight of the vehicle, is as follows:

- (a) 2,850 pounds and over, \$10; and
- (b) under 2,850 pounds, \$5.

(5) Except as provided in subsection (15), the one-time registration fee for off-highway vehicles other than a quadricycle or motorcycle is \$61.25.

(6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75.

(7) (a) Except as provided in subsection (7)(c), the annual registration fee for a motor home, based on the age of the motor home, is as follows:

- (i) less than 2 years old, \$282.50;
- (ii) 2 years old and less than 5 years old, \$224.25;
- (iii) 5 years old and less than 8 years old, \$132.50; and
- (iv) 8 years old and older, \$97.50.

(b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee under this section may permanently register the motor home upon payment of:

- (i) a one-time registration fee of \$237.50;
- (ii) unless a new set of license plates is being issued, an insurance verification fee of \$5, which must be deposited in the account established under 61-6-158;
- (iii) if applicable, five times the renewal fees for personalized license plates under 61-3-406; and
- (iv) if applicable, the donation fee for a generic specialty license plate under 61-3-480 or a collegiate license plate under 61-3-465.

(c) For a motor home with a manufacturer's suggested retail price of more than \$300,000 that is 10 years old or less, the annual registration fee is the amount provided in subsection (7)(a) plus \$800.

(8) (a) ~~(i)~~ Except as provided in ~~subsection~~ *subsections (8)(b) and (15)*, the one-time registration fee for motorcycles and quadricycles registered for use on the public highways is \$53.25, ~~the one-time registration fee for motorcycles and quadricycles registered for off-highway use is \$53.25~~, and the one-time registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways is \$114.50.

~~(b)(i)~~ *(ii)* An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

~~(b)(i)~~ *(i)* The annual registration fee for motorcycles and quadricycles registered for use on the public highways under 61-3-701 is \$44.

~~(b)(ii)~~ *(ii)* The annual registration fee for motorcycles and quadricycles registered for off-highway use under 61-3-701 is \$44.

~~(b)(iii)~~ *(iii)* The annual registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways under 61-3-701 is \$88.

~~(b)(iv)~~ *(iv)* An additional safety fee of \$7 must be collected annually for each motorcycle or quadricycle registered under 61-3-701. The safety fee must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(9) Except as provided in subsection (15), the one-time registration fee for travel trailers, based on the length of the travel trailer, is as follows:

- (a) under 16 feet in length, \$72; and
- (b) 16 feet in length or longer, \$152.

(10) Except as provided in subsection (15), the one-time registration fee for a motorboat, sailboat, personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows:

(a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length, \$65.50;

(b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in length, \$125.50; and

(c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50.

(11) (a) Except as provided in subsections (11)(b) and (15), the one-time registration fee for a snowmobile is \$60.50.

(b) (i) A snowmobile that is licensed by a Montana business and is owned exclusively for the purpose of daily rental to customers is assessed:

(A) a fee of \$40.50 in the first year of registration; and

(B) if the business reregisters the snowmobile for a second year, a fee of \$20.

(ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently registered and the business is assessed the registration fee imposed in subsection (11)(a).

(12) (a) The one-time registration fee for a low-speed electric vehicle is \$25.

(b) The one-time registration fee for a golf cart that is owned by a person who has or is applying for a low-speed restricted driver's license is \$25.

(c) The one-time registration fee for golf carts authorized to operate on certain public streets and highways pursuant to 61-8-391 is \$25. Upon receipt of the fee, the department shall issue the owner a decal, which must be displayed visibly on the golf cart.

(13) (a) Except as provided in subsection (13)(b), a fee of \$10 must be collected when a new set of standard license plates, a new single standard license plate, or a replacement set of special license plates required under 61-3-332 is issued. The \$10 fee imposed under this subsection does not apply when previously issued license plates are transferred under 61-3-335. All registration fees imposed under this section must be paid if the vehicle to which the plates are transferred is not currently registered.

(b) An additional fee of \$15 must be collected if a vehicle owner elects to keep the same license plate number from license plates issued before January 1, 2010, when replacement of those plates is required under 61-3-332(3).

(c) The fees imposed in this subsection (13) must be deposited in the account established under 61-6-158, except that \$2 of the fee imposed in subsection (13)(a) must be deposited in the state general fund.

(14) The provisions of this part with respect to the payment of registration fees do not apply to and are not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled by the United States of America or any state, county, city, or special district, as defined in 18-8-202, or to a vehicle or vessel that meets the description of property exempt from taxation under 15-6-201(1)(a), (1)(d), (1)(e), (1)(g), (1)(h), (1)(i), (1)(k), (1)(l), (1)(n), or (1)(o), 15-6-203, or 15-6-215, except as provided in 61-3-520.

(15) Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle, quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, snowmobile, motor vehicle owned and operated solely as a collector's item pursuant to 61-3-411, or low-speed electric vehicle is transferred, the new owner shall title and register the vehicle or vessel as required by this chapter and pay the fees imposed under this section.

(16) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

(17) Except as otherwise provided in this section, revenue collected under this section must be deposited in the state general fund.

(18) The fees imposed by subsections (2) through (12) are not required to be paid by a dealer for the enumerated vehicles or vessels that constitute inventory of the dealership.

(19) (a) Unless a person exercises the option in either subsection (19)(b) or (19)(c), an additional fee of \$6 must be collected for each light vehicle registered under this part. This fee must be accounted for and transmitted separately

from the registration fee. The fee must be deposited in an account in the state special revenue fund to be used for state parks, for fishing access sites, and for the operation of state-owned facilities. Of the \$6 fee, the department of fish, wildlife, and parks shall use \$5.37 for state parks [or as otherwise appropriated by the legislature], 25 cents for fishing access sites, and 38 cents for the operation of state-owned facilities at Virginia City and Nevada City.

(b) A person who registers a light vehicle may, at the time of annual registration, certify that the person does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected.

(c) (i) A person who registers one or more light vehicles may, at the time of annual registration, certify that the person does not intend to use any of the vehicles to visit state parks and fishing access sites and may make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected at any subsequent annual registration unless the person makes the written election to pay the additional fee on one or more of the light vehicles.

(ii) The written election not to pay the additional fee on a light vehicle expires if the vehicle is registered to a different person.

(20) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle, quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$10 must be collected and forwarded to the state for deposit in the account established in 44-1-504.

(21) (a) If a person exercises the option in subsection (21)(b), an additional fee of \$5 must be collected for each light vehicle registered under this part. This fee must be accounted for and transmitted separately from the registration fee. The fee must be deposited in an account in the state special revenue fund. Funds in the account are statutorily appropriated, as provided in 17-7-502, to the department of transportation and must be allocated as provided in 60-3-309.

(b) A person who registers one or more light vehicles may, at the time of annual registration, make a written or electronic election to pay the additional \$5 fee provided for in subsection (21)(a).

(22) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by 61-3-721.

(23) (a) The \$800 and \$825 amounts collected based on the manufacturer's suggested retail price in subsections (2) and (7) are exempt from the provisions of 15-1-122 and must be deposited in the motor vehicle division administration account established in 61-3-112.

(b) By August 15 of each year, beginning in the fiscal year beginning July 1, 2019, the department of justice shall deposit into the general fund an amount equal to the fiscal yearend balance minus 25% of the current fiscal year appropriation for the ~~motor vehicle division administration~~ account established in 61-3-112.

(24) *For the purposes of this section, "manufacturer's suggested retail price" means the price suggested by a manufacturer for each given type, style, or model of a light vehicle or motor home produced and first made available for retail sale by the manufacturer.* (Bracketed language terminates June 30, 2019--sec. 21, Ch. 351, L. 2017.)

Section 6. Section 61-3-332, MCA, is amended to read:

"61-3-332. Standard license plates. (1) In addition to special license plates, collegiate license plates, generic specialty license plates, and fleet license plates authorized under this chapter, a separate series of standard

license plates must be issued for motor vehicles, quadricycles, travel trailers, trailers, semitrailers, and pole trailers registered in this state or offered for sale by a vehicle dealer licensed in this state. Standard license plates issued to licensed vehicle dealers must be readily distinguishable from license plates issued to vehicles owned by other persons.

(2) (a) Except as provided in 61-3-479 and subsections (2)(b), (3)(b), and (3)(c) of this section, all standard license plates for motor vehicles, trailers, semitrailers, or pole trailers must bear a distinctive marking, as determined by the department, and be furnished by the department. In years when standard license plates are not reissued for a vehicle, the department shall provide a registration decal that must be affixed to the rear license plate of the vehicle.

(b) For light vehicles that are permanently registered as provided in 61-3-562 and motor vehicles described in 61-3-303(9) that are permanently registered, the department shall provide a distinctive registration decal indicating that the motor vehicle is permanently registered. The registration decal must be affixed to the rear license plate of the permanently registered motor vehicle.

(c) For a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer that is permanently registered as provided in 61-3-313(2), the department may use the word or an abbreviation for the word “permanent” on the plate in lieu of issuing a registration decal for the plate.

(3) (a) (i) New license plates issued under 61-3-303 or this section must be a standard license plate design first issued in 1989 or later or current collegiate or generic specialty license plate designs. For the purposes of this subsection (3), all military, veteran, and amateur radio license plates and any license plate with a wheelchair design, excluding collegiate or generic specialty plates with a wheelchair design, are treated as standard license plates.

(ii) License plates issued on or after January 1, 2010, must be replaced with new license plates if, upon renewal of registration under 61-3-312, the license plates are 5 5 or more years old or will become older than 5 5 years during the registration period. New license plates must be issued in accordance with the implementation schedule adopted by the department under 61-3-315 [section 22].

(iii) A vehicle owner may elect to keep the same license plate number from license plates issued before January 1, 2010, when replacement of those plates is required under this subsection.

(b) A motor vehicle that is registered for a 13-month to a 24-month period, as provided in 61-3-311, may display the license plate and plate design in effect at the time of registration for the entire registration period.

(c) A light vehicle described in subsection (2)(b) or a motor home that is permanently registered may display the license plate and plate design in effect at the time of registration for the entire period that the light vehicle or motor home is permanently registered.

(d) The provisions of this subsection (3) do not apply to a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer.

(e) The requirements of this subsection (3) apply to collegiate license plates authorized under 61-3-461 through 61-3-468, generic specialty license plates authorized under 61-3-472 through 61-3-481, commemorative centennial license plates authorized under 61-3-448, and special military or veteran license plates authorized under 61-3-458.

(4) (a) All license plates must be metal and treated with a reflectorized background material according to specifications prescribed by the department. The word “Montana” must be placed on each license plate and, except for license plates that are 4 inches wide and 7 inches in length, the outline of the

state of Montana must be used as a distinctive border on each standard license plate.

(b) Plates for semitrailers, travel trailers, pole trailers, trailers with a declared weight of 6,000 pounds or more, and motor vehicles, other than motorcycles and quadricycles, must be 6 inches wide and 12 inches in length.

(c) Plates for motorcycles and quadricycles must be 4 inches wide and 7 inches in length.

(d) The department shall issue plates that are 4 inches wide and 7 inches in length for trailers with a declared weight of less than 6,000 pounds unless a person registering a trailer with a declared weight of less than 6,000 pounds requests plates that are 6 inches wide and 12 inches in length. A person registering a trailer shall pay all applicable fees for the plates chosen.

(5) The distinctive registration numbers for standard license plates must begin with a number one or with a letter-number combination, such as "A 1" or "AA 1", or any other similar combination of letters and numbers. Except for special license plates, collegiate license plates, generic specialty license plates, fleet license plates, and standard license plates that are 4 inches wide and 7 inches in length, the distinctive registration number or letter-number combination assigned to the motor vehicle must appear on the plate preceded by the number of the county and appearing in horizontal order on the same horizontal baseline. The county number must be separated from the distinctive registration number by a separation mark unless a letter-number combination is used. The dimensions of the numerals and letters must be determined by the department, and all county and registration numbers must be of equal height.

(6) For the use of exempt motor vehicles, trailers, semitrailers, or pole trailers and motor vehicles, trailers, semitrailers, or pole trailers that are exempt from the registration fee as provided in 61-3-321, in addition to the markings provided in this section, standard license plates must bear the following distinctive markings:

(a) For motor vehicles, trailers, semitrailers, or pole trailers owned by the state, the department may designate the prefix number for the various state departments. All numbered plates issued to state departments must bear the words "State Owned", and a year number may not be indicated on the plates because these numbered plates are of a permanent nature and will be replaced by the department only when the physical condition of numbered plates requires it.

(b) For motor vehicles, trailers, semitrailers, or pole trailers that are owned by the counties, municipalities, and special districts, as defined in 18-8-202, organized under the laws of Montana and not operating for profit, and that are used and operated by officials and employees in the line of duty and for motor vehicles on loan from the United States government or the state of Montana to, or owned by, the civil air patrol and used and operated by officials and employees in the line of duty, there must be placed on the standard license plates assigned, in a position that the department may designate, the letter "X" or the word "EXEMPT". Distinctive registration numbers for plates assigned to motor vehicles, trailers, semitrailers, or pole trailers of each of the counties in the state and those of the municipalities and special districts that obtain plates within each county must begin with number one and be numbered consecutively. Because these standard license plates are of a permanent nature, they are subject to replacement by the department only when the physical condition of the license plates requires it and a year number may not be displayed on the plates.

(7) For the purpose of this chapter, the several counties of the state are assigned numbers as follows: Silver Bow, 1; Cascade, 2; Yellowstone, 3;

Missoula, 4; Lewis and Clark, 5; Gallatin, 6; Flathead, 7; Fergus, 8; Powder River, 9; Carbon, 10; Phillips, 11; Hill, 12; Ravalli, 13; Custer, 14; Lake, 15; Dawson, 16; Roosevelt, 17; Beaverhead, 18; Chouteau, 19; Valley, 20; Toole, 21; Big Horn, 22; Musselshell, 23; Blaine, 24; Madison, 25; Pondera, 26; Richland, 27; Powell, 28; Rosebud, 29; Deer Lodge, 30; Teton, 31; Stillwater, 32; Treasure, 33; Sheridan, 34; Sanders, 35; Judith Basin, 36; Daniels, 37; Glacier, 38; Fallon, 39; Sweet Grass, 40; McCone, 41; Carter, 42; Broadwater, 43; Wheatland, 44; Prairie, 45; Granite, 46; Meagher, 47; Liberty, 48; Park, 49; Garfield, 50; Jefferson, 51; Wibaux, 52; Golden Valley, 53; Mineral, 54; Petroleum, 55; Lincoln, 56. Any new counties must be assigned numbers by the department as they are formed, beginning with the number 57.

(8) Each type of special license plate approved by the legislature, except collegiate license plates authorized in 61-3-463 and generic specialty license plates authorized in 61-3-472 through 61-3-481, must be a separate series of plates, numbered as provided in subsection (5), except that the county number must be replaced by a design that distinguishes each separate plate series. Unless otherwise specifically stated in this section, the special plates are subject to the same rules and laws as govern the issuance of standard license plates, must be placed or mounted on a motor vehicle, trailer, semitrailer, or pole trailer owned by the person who is eligible to receive them, with the registration decal affixed to the rear license plate of the motor vehicle, trailer, semitrailer, or pole trailer, and must be removed upon sale or other disposition of the motor vehicle, trailer, semitrailer, or pole trailer.

(9) (a) A Montana resident who is eligible to receive a special parking permit under 49-4-301 may and a person with a low-speed restricted driver's license operating a low-speed electric vehicle or golf cart as provided in 61-5-122 must, upon written application on a form prescribed by the department, be issued a special license plate with a design or decal bearing a representation of a wheelchair as the symbol of a person with a disability.

(b) If the motor vehicle to which the license plate is attached is permanently registered, the owner of the motor vehicle shall provide, upon request of a person authorized to enforce special parking laws or ordinances in this or any state, evidence of continued eligibility to use the license plate in the form of a valid special parking permit issued to or renewed by the vehicle owner under 49-4-304 and 49-4-305.

(c) A person with a permanent condition, as provided in 49-4-301(2)(b), who has been issued a special license plate upon written application, as provided in this subsection (9), is not required to reapply upon reregistration of the motor vehicle.

(10) The provisions of this section do not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is registered as part of a fleet, as defined in 61-3-712, and that is subject to the provisions of 61-3-711 through 61-3-733."

Section 7. Section 61-3-414, MCA, is amended to read:

"61-3-414. Special motorcycle license plates for military personnel, veterans, and spouses – department to design – fees – disposition. (1) The department shall design and issue motorcycle license plates for all special military and veteran license plates provided for in 61-3-458(2)(d) and (3).

(2) A person requesting a special military or veteran motorcycle license plate under this section:

(a) is subject to the eligibility requirements for the license plate as provided in 61-3-458; and

(b) shall pay to the county treasurer or an authorized agent:

(i) an administrative fee of \$5 upon issuance of the motorcycle license plate, to be deposited in the county general fund;

- (ii) a \$5 license plate fee, to be deposited in the state general fund; and
 - (iii) a \$10 veterans' cemetery fee, to be deposited as provided in 61-3-459(2).
- (3) Upon request, after paying the fees imposed under subsection (2)(b) and any applicable vehicle registration fees under this chapter, the surviving spouse of an eligible veteran, if the spouse has not remarried, may retain the special license plates issued to the deceased veteran, subject to the eligibility requirements for the plate as provided in 61-3-458(4)."

Section 8. Section 61-3-415, MCA, is amended to read:

"61-3-415. Special motorcycle license plates – department to design – fees – distribution. (1) A Montana resident who is the owner of a motorcycle or quadricycle titled and registered under this chapter and who pays the fee required under subsection (2) may be issued a special motorcycle license plate bearing a design created by the department. The design must recognize the efforts of one or more Montana-based nonprofit organizations that grant wishes to chronically or critically ill Montana children.

(2) A person requesting a special motorcycle license plate under this section shall pay to the county treasurer or an authorized agent:

(a) an administrative fee of \$5 upon issuance of the special license plate, to be deposited in the county general fund;

(b) a \$5 license plate fee; and

(c) a donation fee of \$20.

(3) The county treasurer or an authorized agent shall remit the fees required in subsections (2)(b) and (2)(c) to the department. For each special plate issued, the department shall deposit \$5 in the state general fund and \$20 in an account in the state special revenue fund to be used by the department as provided in subsection (4).

(4) The department shall use the money deposited in the account in the state special revenue fund as provided in subsection (3) to provide grants, using criteria established by the department, to Montana-based nonprofit organizations that grant wishes to Montana children who are chronically or critically ill.

~~(5) The department shall adopt rules to identify the entity or entities that may qualify for grants under this section and to establish the criteria that an entity must meet to receive grant funds.~~

(6)(5) The account in the state special revenue fund provided for in subsection (3) is statutorily appropriated to the department, as provided in 17-7-502."

Section 9. Section 61-3-423, MCA, is amended to read:

"61-3-423. Rules—limit *Limit* of one identical pair of plates for each operator. ~~The department shall adopt rules to procure compliance with all the laws of the state regulating the issuance of motor vehicle, trailer, semitrailer, or pole trailer licenses relating to the use and operation of motor vehicles, trailers, semitrailers, or pole trailers before issuing the lettered license plates.~~ The department may not issue more than one identical pair of lettered license plates for any licensed amateur radio station in any one licensing period."

Section 10. Section 61-3-474, MCA, is amended to read:

"61-3-474. Responsibility for design of generic specialty license plates – numbering – rulemaking – approval – registration decal – listing of plate sponsors. (1) The department shall:

(a) design the background and general format of generic specialty license plates;

(b) in consultation with the department of corrections, determine which license plate processing system is the most efficient and versatile manufacturing method for the production of generic specialty license plates; *and*

(c) use a numbering system for generic specialty license plates that is distinctive from the numbering system required under 61-3-332 or used for collegiate license plates;

(d) adopt rules that prescribe:

~~(i) the minimum and maximum number of characters that a generic specialty license plate may display;~~

~~(ii) the general placement of the sponsor's name, identifying phrase, and graphic; and~~

~~(iii) any specifications or limitations on the use or choice of color or detail in the sponsor's graphic design.~~

(2) All sponsor names, identifying phrases, and graphics intended for use on generic specialty license plates must be approved by the department prior to the manufacture of the plates.

(3) Upon the issuance of generic specialty license plates, a registration decal must be affixed to the license plates as provided in 61-3-332.

(4) The department shall maintain a list of the sponsors that have been approved to promote the sale and issuance of generic specialty license plates, the initial distribution date for sale of each sponsored generic specialty license plate, and the donation fee established by the sponsor for each sponsored generic specialty license plate. The department shall, upon request, make copies of this list available to interested members of the public.

(5) The department may, in its discretion, revoke its previous approval of a sponsor's generic specialty license plate sponsorship if:

(a) the sponsor fails to comply with the provisions of 61-3-472 through 61-3-481;

(b) fewer than 400 sets of a sponsor's generic specialty license plate have been sold or renewed in the 12-month period immediately preceding the third anniversary of the date of initial distribution of the sponsored generic specialty license plate; or

(c) the department has reliable information that the sponsor is no longer qualified for sponsorship under 61-3-472 through 61-3-481.

(6) (a) Upon revocation of a sponsor's generic specialty license plate sponsorship status, the issuance and sale of the sponsor's generic specialty license plates must be terminated.

(b) A person who owns a motor vehicle displaying valid generic specialty license plates affiliated with a sponsor whose sponsorship status has been revoked may continue to display those generic specialty license plates on the person's motor vehicle until the motor vehicle's registration is renewed.

(c) Following revocation of a sponsor's sponsorship status, the department may not issue replacements or duplicates of generic specialty license plates affiliated with that sponsor."

Section 11. Section 61-3-535, MCA, is amended to read:

"61-3-535. Motor vehicle registration renewal – reminder notice and renewal by mail. (1) The owner of a motor vehicle subject to renewal of registration under 61-3-312 may renew the registration of a motor vehicle by mail or by electronic methods when the value, age, length, weight, or other criteria used to determine the tax or fee for a particular type of motor vehicle are available to the department by electronic means.

(2) Any mail renewal procedure developed by the department ~~must~~ *may*:

(a) include a procedure to facilitate automated handling of mail renewal, including issuance of replacement plates when required by statute;

(b) include a procedure to verify compliance with 61-6-301 using the system provided in 61-6-157; ~~and or~~

(c) provide for a ~~written~~ reminder notice ~~by mail~~ to the owner of a motor vehicle of the requirement to renew the vehicle's registration."

Section 12. Section 61-4-203, MCA, is amended to read:

"61-4-203. Administration. The department shall supervise and regulate all persons required by this part to be licensed. In the supervision and regulation thereof the department may:

- (1) make investigations it considers necessary; *and*
- (2) conduct hearings and compel attendance of witnesses at the hearings pursuant to the Montana Administrative Procedure Act; *and*
- (3) ~~prescribe rules it determines necessary to carry out the provisions of this part."~~

Section 13. Section 61-5-111, MCA, is amended to read:

"61-5-111. Contents of driver's license, renewal, license expirations, grace period, and fees for licenses, permits, and endorsements -- notice of expiration. (1) (a) The department may appoint county treasurers and other qualified officers to act as its agents for the sale of driver's license receipts. ~~The department shall adopt necessary rules governing sales.~~ In areas in which the department provides driver licensing services 3 days or more a week, the department is responsible for sale of receipts and may appoint an agent to sell receipts.

(b) The department may enter into an authorized agent agreement with the county treasurer of any county in which the department no longer maintains a driver examination station for the purpose of providing driver's license renewal services.

(2) (a) The department, upon receipt of payment of the fees specified in this section, shall issue a driver's license to each qualifying applicant. The license must contain:

- (i) a full-face photograph of the licensee in the size and form prescribed by the department;
- (ii) a distinguishing number issued to the licensee;
- (iii) the full legal name, date of birth, Montana residence address unless the licensee requests use of the mailing address, and a brief description of the licensee;
- (iv) either the licensee's customary manual signature or a reproduction of the licensee's customary manual signature; and
- (v) if the applicant qualifies under subsection (7), indication of the applicant's status as a veteran.

(b) The department may not use the licensee's social security number as the distinguishing number. A license is not valid until it is signed by the licensee.

(3) (a) When a person applies for renewal of a driver's license, the department shall conduct a records check in accordance with 61-5-110(1) to determine the applicant's eligibility status and shall test the applicant's eyesight. The department may also require the applicant to submit to a knowledge and road or skills test if:

- (i) the renewal applicant has a physical or mental disability, limitation, or condition that impairs, or may impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; and
- (ii) the expired or expiring license does not include adaptive equipment or operational restrictions appropriate to the applicant's functional abilities; or
- (iii) the applicant wants to remove or modify the restrictions stated on the expired or expiring license.

(b) In the case of a commercial driver's license, the department shall, if the information was not provided in a prior licensing cycle, require the renewal

applicant to provide the name of each jurisdiction in which the applicant was previously licensed to drive any type of motor vehicle during the 10-year period immediately preceding the date of the renewal application and may also require that the applicant successfully complete a written examination as required by federal regulations.

(c) A person is considered to have applied for renewal of a Montana driver's license if the application is made within 6 months before or 3 months after the expiration of the person's license. Except as provided in subsection (3)(d), a person seeking to renew a driver's license shall appear in person at a Montana driver's examination station.

(d) (i) Except as provided in subsections (3)(d)(iii) through (3)(d)(vi), a person may renew a driver's license by mail or online.

(ii) An applicant who renews a driver's license by mail or online shall submit to the department an approved vision examination and a medical evaluation from a licensed physician, licensed physician assistant, or advanced practice registered nurse, as defined in 37-8-102, in addition to the fees required for renewal.

(iii) If the department does not have a digitized photograph and signature record of the renewal applicant from the expiring license, then the renewal applicant shall apply in person.

(iv) Except as provided in subsections (4)(b) and (4)(c), the term of a license renewed by mail or online is 8 years.

(v) The department may not renew a license by mail or online if:

(A) the records check conducted in accordance with 61-5-110(1) shows an ineligible license status for the applicant;

(B) the applicant holds a commercial driver's license with a hazardous materials endorsement, the retention of which requires additional testing and a security threat assessment under 49 CFR, part 1572;

(C) the applicant seeks a change of address or a name change; or

(D) the applicant's license:

(I) has been expired for 3 months or longer; or

(II) except as provided in subsection (3)(e), was renewed by mail or online at the time of the applicant's previous renewal.

(vi) If a license was issued to a foreign national whose presence in the United States is temporarily authorized under federal law, the license may not be renewed by mail or online.

(e) The spouse or a dependent of a renewal applicant who is stationed outside Montana on active military duty may renew the applicant's license by mail or online for one additional consecutive term following a renewal by mail or online.

(f) The department shall mail a driver's license renewal notice no earlier than 90 days and no later than 30 days prior to the expiration date of a driver's license. Except as provided in 61-3-119 and 61-5-115, the department shall mail the notice to the Montana mailing address shown on the driver's license.

(4) (a) Except as provided in subsections (4)(b) through (4)(e), a license expires on the anniversary of the licensee's birthday 8 years or less after the date of issue or on the licensee's 75th birthday, whichever occurs first.

(b) A license issued to a person who is 75 years of age or older expires on the anniversary of the licensee's birthday 4 years or less after the date of issue.

(c) A license issued to a person who is under 21 years of age expires on the licensee's 21st birthday.

(d) (i) Except as provided in subsection (4)(d)(ii), a commercial driver's license expires on the anniversary of the licensee's birthday 5 years or less after the date of issue.

(ii) When a person obtains a Montana commercial driver's license with a hazardous materials endorsement after surrendering a comparable commercial driver's license with a hazardous materials endorsement from another licensing jurisdiction, the license expires on the anniversary of the licensee's birthday 5 years or less after the date of the issue of the surrendered license if, as reported in the commercial driver's license information system, a security threat assessment was performed on the person as a condition of issuance of the surrendered license.

(e) A license issued to a person who is a foreign national whose presence in the United States is temporarily authorized under federal law expires, as determined by the department, no later than the expiration date of the official document issued to the person by the bureau of citizenship and immigration services of the department of homeland security authorizing the person's presence in the United States.

~~(f) The department may adopt rules to implement online driver's license renewal.~~

(5) When the department issues a driver's license to a person under 18 years of age, the license must be clearly marked with a notation that conveys the restrictions imposed under 61-5-133.

(6) (a) Upon application for a driver's license or commercial driver's license and any combination of the specified endorsements, the following fees must be paid:

(i) driver's license, except a commercial driver's license -- \$5 a year or fraction of a year;

(ii) motorcycle endorsement -- 50 cents a year or fraction of a year;

(iii) commercial driver's license:

(A) interstate -- \$10 a year or fraction of a year; or

(B) intrastate -- \$8.50 a year or fraction of a year.

(b) A renewal notice for either a driver's license or a commercial driver's license is 50 cents.

(7) (a) Upon receiving a request from a person whose status as a veteran has been verified by the department of military affairs pursuant to 10-2-1301 and upon receiving the information and fees required in this part, the department shall include the word "veteran" on the face of the license.

(b) After a person's status as a veteran is denoted on a driver's license, the department may not require further documentation of that status from the holder of the license upon subsequent renewal or replacement."

Section 14. Section 61-5-112, MCA, is amended to read:

~~"61-5-112. Types and classes of commercial driver's licenses -- classification -- rulemaking -- reciprocity~~ *Reciprocal agreements.* (†) The department shall adopt rules that it considers necessary for the safety and welfare of the traveling public governing the classification of commercial driver's licenses and related endorsements and the examination of commercial driver's license applicants and renewal applicants. The rules must:

~~(a) subject to the exceptions provided in this section, comport with the licensing standards and requirements of 49 CFR, part 383, the medical qualifications of 49 CFR, part 391, and the security threat assessment provisions of 49 CFR, part 1572;~~

(b) allow for the issuance of a type 2 (intrastate only) commercial driver's license in accordance with medical qualification and visual acuity standards prescribed by the department;

(c) allow for the issuance of a type 2 commercial driver's license to a person who is 18 years of age or older;

(d) ~~allow for issuance of a seasonal commercial driver's license based on standards established by the department for the waiver of the knowledge and road or skills test for a qualified person employed in farm-related service industries who has a good driving record and sufficient prior driving experience;~~

(e) ~~prescribe the operational and seasonal restrictions for a seasonal commercial driver's license;~~

(f) ~~prescribe the requirements for the medical statement that must be submitted in order for a person to be qualified for a type 2 commercial driver's license;~~

(g) ~~prescribe the minimum standards for certification of a third-party commercial driver testing program and any test waiver under 61-5-118; and~~

(h) ~~allow for the issuance of a commercial learner's permit.~~

(2) The department is authorized to enter into reciprocal agreements with adjacent states that would allow certain drivers of vehicles transporting farm products, farm machinery, or farm supplies within 150 miles of a farm to operate without a commercial driver's license because the vehicles are not considered commercial motor vehicles as provided in 61-1-101(9)(b)(ii)."

Section 15. Section 61-5-118, MCA, is amended to read:

"61-5-118. Third-party commercial driver testing program – certification of testing programs and examiners – rulemaking – fees – test waiver. (1) The department may contract with and certify the following as a third-party commercial driver testing program to administer the approved commercial driver skills test to a Montana commercial driver's license applicant:

(a) any person, employer of commercial drivers, private driver training facility, or other private company;

(b) a postsecondary institution as defined in 20-26-603;

(c) a department, agency, or instrumentality of a local government of the state; or

(d) a department, agency, or instrumentality of a tribal government of the state.

(2) A certified third-party driver testing program shall administer the same skills test as would otherwise be administered by the department.

(3) The department shall adopt rules governing the certification, operation, and monitoring of third-party testing programs. The rules must:

(a) ~~substantially comply with the licensing standards and requirements in 49 CFR, part 383, and the state compliance standards in 49 CFR, part 384, including:~~

(i) ~~issuance of a commercial driver's license skills testing certificate to a certified program upon execution of a third-party skills testing agreement;~~

(ii) ~~requiring that all third-party skills test examiners meet minimum qualifications, including passing background checks paid for by the third-party testing program and successfully completing a formal skills test examiner training course;~~

(iii) ~~providing examiner test limitations, minimum testing standards, and refresher training requirements; and~~

(iv) ~~requiring recordkeeping and a detailed audit program that includes overt and covert test monitoring and onsite audits by state and federal personnel;~~

(b) ~~specifically address the requirements for certifying third-party commercial driver testing programs, including place of business, appropriate bond and liability insurance, and facilities requirements; and~~

~~(c) specify minimum technology requirements for recordkeeping, scheduling applicants for the skills test, conducting the skills test, and electronically transferring skills test results to the department.~~

(4)(3) The department may decertify a third-party commercial driver testing program for failure to comply with the department rules or federal regulations.

~~(5)(4)~~ The department may collect the following fees:

(a) a fee of \$5,000 to certify a third-party commercial driver testing program and a fee of \$2,500 for certification renewal;

(b) a fee of \$500 to certify each third-party commercial driver examiner and a fee of \$100 for certification renewal; and

(c) a fee of \$25 for each successfully completed skills test to be paid by the applicant.

(6)(5) (a) A commercial driver's license applicant who is tested under the third-party commercial driver testing program must have passed the knowledge test required by 61-5-110 and complied with commercial driver's license department rules and federal regulations and must possess a valid Montana commercial learner's permit ~~issued under 61-5-112.~~

(b) The road test or the skills test required by 61-5-110 may be waived by the department for a commercial driver's license applicant upon certification of the applicant's successful completion of the road test or the skills test by:

(i) a third-party commercial driver testing program certified under this section; or

(ii) a third-party commercial driver examiner from a jurisdiction that has a comparable third-party commercial driver testing program, as determined by the department."

Section 16. Section 61-5-123, MCA, is amended to read:

"61-5-123. Waiver of skills test related to military commercial motor vehicles experience —rulemaking. (1) The department may waive the skills test required for a commercial driver's license if an applicant meets the conditions in subsection (2) and is:

(a) a veteran of the armed forces of the United States who was honorably discharged;

(b) currently serving in the armed forces of the United States;

(c) serving full-time in a reserve component, as defined in 37-1-138; or

(d) honorably discharged from the reserve component after serving full-time in the reserve component.

(2) An applicant shall:

(a) certify that, during the 2-year period immediately prior to application, the applicant:

(i) did not have more than one license except for a military license;

(ii) did not have a license suspended, revoked, or canceled;

(iii) was not convicted of a disqualifying offense as provided in 49 CFR 383.51(b);

(iv) did not have more than one conviction for a serious traffic violation as provided in 49 CFR 383.51(c); and

(v) did not have any conviction for a violation of military, state, or local law relating to motor vehicle traffic control other than a parking violation arising in connection with any traffic accident and has no record of an accident in which the applicant was at fault; *and*

(b) provide evidence and certify that:

(i) the military position in which the applicant served required regular operation over at least a 2-year period immediately prior to either discharge or application, as applicable, of a commercial motor vehicle representative of the

class of motor vehicle for which the applicant is seeking a commercial driver's license; and

(ii) the applicant was exempted under 49 CFR 383.3(c) from the requirements of this part when operating a commercial motor vehicle in the military.

(3) ~~The department shall adopt rules necessary for the administration of this section."~~

Section 17. Section 61-5-232, MCA, is amended to read:

"61-5-232. Restricted-use driving permit – conditions – definitions.

(1) A person who, pursuant to 61-5-105(2), may not be issued a driver's license due to an ineligible status reported by another state to the national driver register may petition the district court of the county in which the person resides for a restricted-use driving permit for use only within the state of Montana if:

(a) the person has maintained continuous residence in Montana for at least 5 years and is not otherwise ineligible for a license under 61-5-105;

(b) the person submits a certified driving record from the licensing agency of each state that has reported the person's status as ineligible to the national driver register that shows that at least 5 years have elapsed from the effective date of the most recent withdrawal of the person's driver's license or driving privileges by the other state or states;

(c) for the 5-year period immediately preceding application for a restricted-use driving permit, the person has not been convicted in any jurisdiction of a felony or misdemeanor offense;

(d) the person certifies that no traffic citations or alcohol-related or drug-related criminal charges are currently pending against the person;

(e) the person certifies that a good faith effort was made to resolve the person's ineligible status through the licensing agency of each state or states that reported the person's status as ineligible to the national driver register, including the payment of any pending fees or fines; and

(f) the person provides any other information required by department rule.

(2) ~~The department may adopt rules to determine the process for issuance, withdrawal, and monitoring of a restricted-use driving permit.~~ The department may issue a restricted-use driving permit only to a person who satisfies all of the requirements of this section as determined by a district court pursuant to subsection (1). A person who is issued a restricted-use driving permit may use it only for an essential driving purpose as defined by the department.

(3) For purposes of this section, the following definitions apply:

(a) "Most recent withdrawal" means the suspension, revocation, or denial of a driver's license or driving privilege underlying a current ineligible status report made by another state's licensing agency to the national driver register.

(b) "National driver register" means the registry established under 49 U.S.C. 30302.

(c) "Restricted-use driving permit" means a paper document authorizing a person to drive within this state for essential driving purposes only and that is issued by the department to a person whose status on the national driver register is reported as ineligible to operate a motor vehicle other than a commercial motor vehicle."

Section 18. Section 61-11-102, MCA, is amended to read:

"61-11-102. Records to be kept by department. (1) Except as provided in subsection (8), the department shall create and maintain a central database of electronic files that includes an individual Montana driving record for each person:

(a) who has been issued a Montana driver's license;

(b) who does not have a driver's license from, or active driving record in, another jurisdiction and for whom the department receives a report of

conviction of a traffic violation or an offense requiring suspension or revocation of the person's driver's license; and

(c) whose driver's license or driving privileges have been suspended, revoked, canceled, or otherwise withdrawn by the department.

(2) An individual Montana driving record maintained under this section must include:

(a) personal information obtained from the application for a driver's license or a report of conviction;

(b) the person's driver's license number, license type, status, endorsements, restrictions, issue and expiration dates, and any suspensions, revocations, disqualifications, or cancellations that have been imposed against the person;

(c) all convictions reported to the department for the person; and

(d) traffic accidents in which the person was involved, except that a record of involvement in a traffic accident may not be entered on a licensee's record unless the licensee was convicted, as defined in 61-11-203, for an act causally related to the accident.

(3) (a) The department shall create and maintain a CDLIS driver record for each person who has been issued a Montana commercial driver's license or for whom a record of conviction, disqualification, or other licensure action has been taken for violations of any state or local law relating to motor vehicle traffic regulation, other than a parking violation, committed while operating a commercial motor vehicle.

(b) A CDLIS driver record maintained by the department must meet the requirements of 49 CFR 384.225.

(c) If the department receives notice that a person has been disqualified by the federal motor carrier safety administration as an imminent hazard under 49 CFR 383.52, the department shall record the disqualification on the CDLIS driver record.

(4) The department shall retain records created under this section for a period of time that meets or exceeds the standards established under 49 CFR, part 384.

(5) The department is further authorized, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, to forward, by electronic or other means, a report of the conviction to the motor vehicle administrator in the state in which the person is a resident or licensed.

(6) The department may place on a computer storage device the information contained on original records or reproductions of original records made pursuant to this section. Signatures on records are not required to be placed on a computer storage device.

(7) (a) Except as provided in subsection (7)(b), a reproduction of the information placed on a computer storage device is an original of the record for all purposes and is admissible in evidence without further foundation in all courts or administrative agencies when the department certifies the record.

(b) An order, record, or paper generated from the department's central database of electronic files of individual Montana driving records may be certified electronically by the generating computer. The certification must be a certification of the order, record, or paper as it appeared on a specific date.

(c) A court, an office of a clerk of court, or an attorney licensed to practice law in this state may receive and use a computer-generated individual Montana driving record as evidence without further foundation when:

(i) the individual Montana driving record is electronically transmitted from the department's central database of electronic individual Montana driving

records to a department-authorized terminal device maintained by the court, the office of the clerk of court, or the attorney; and

(ii) the judge, an officer of the court, or the attorney certifies that the record was not altered in any way.

(8) ~~(a)~~ Except as provided in subsection (4), the department may destroy any individual Montana driving record maintained under this section if there are no suspensions or revocations on the record and there has been no renewed credential in the immediately preceding 16 years.

~~(b) The department shall adopt rules governing the destruction of records."~~

Section 19. Section 61-11-503, MCA, is amended to read:

"61-11-503. Definitions. As used in this part, the following definitions apply:

(1) "Disclose" means to engage in any practice or conduct that makes available or known, by means of any communication to another person, organization, or entity, personal information contained in a motor vehicle record.

(2) "Express consent" means an affirmative authorization given in writing by a person to whom personal information pertains that specifically allows the department to release personal information to another person, organization, or entity. Consent may be conveyed electronically if the conveyance includes an electronic signature, as defined in 30-18-102, from the person to whom the personal information pertains.

(3) "Highly restricted personal information" means an individual's photograph or image, social security number, or medical or disability information.

(4) "Motor vehicle record" means any record maintained by the department that pertains to a driver's license, commercial driver's license, driving permit, ~~motor vehicle title, motor vehicle registration, or identification card issued by the department~~ *identification card, or title or registration for a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle.*

(5) "Person" does not mean a state agency or local government entity.

(6) (a) "Personal information" means information that identifies a person, including a person's name, address, telephone number, social security number, driver's license or identification number, date of birth, photograph or image, and medical or disability information.

(b) The term does not include the five-digit zip code of an address, information on vehicular accidents, driving or equipment-related violations, a person's driver's license or vehicle registration status, or a vehicle's insurance status.

(7) "Record" includes all books, papers, photographs, photostats, cards, film, tapes, recordings, electronic data, printouts, or other documentary materials, regardless of physical form or characteristics."

Section 20. Section 61-12-502, MCA, is amended to read:

~~"61-12-502. Rules for identification cards -- veteran~~ **Veteran designation.** (1) ~~The department shall formulate and adopt rules governing the issuance and cancellation of identification cards that comport with the proof of identity, residence, and authorized presence standards for a driver's license issued under Title 61, chapter 5.~~

(2) The department shall include the word "veteran" on the face of an identification card if the requirements of 61-5-111(7) are met by the person applying for the identification card."

Section 21. Section 61-13-103, MCA, is amended to read:

“61-13-103. Seatbelt use required – exceptions. (1) A driver may not operate a motor vehicle upon a highway of the state of Montana unless each occupant of a designated seating position is wearing a properly adjusted and fastened seatbelt or, if 61-9-420 applies, is properly restrained in a child safety restraint.

(2) The provisions of this section do not apply to:

(a) an occupant of a motor vehicle who possesses a written statement from a licensed physician, licensed physician assistant, or advanced practice registered nurse, as defined in 37-8-102, that the occupant is unable to wear a seatbelt for medical reasons;

(b) an occupant of a motor vehicle in which all seatbelts are being used by other occupants;

(c) an operator of a motorcycle or a motor-driven cycle;

(d) an occupant of a vehicle licensed as special mobile equipment; or

(e) an occupant who makes frequent stops with a motor vehicle during official job duties and who may be exempted by the department.

~~(3) The department may adopt rules to implement subsection (2)(e).~~

~~(4)~~(3) The department or its agent may not require a driver who may be in violation of this section to stop except:

(a) upon reasonable cause to believe that the driver has violated another traffic regulation or that the driver's vehicle is unsafe or not equipped as required by law; or

(b) if a person in the vehicle who is under 6 years of age and weighs less than 60 pounds is not properly restrained under 61-9-420 or this section.”

Section 22. Rulemaking authority – vehicle services. (1) The department shall adopt rules for the registration of motor vehicles, including:

(a) simultaneous registration of multiple motor vehicles that have common ownership;

(b) verification of compliance with 61-6-301 before registering or renewing a registration of a vehicle or issuing new license plates required by 61-3-332(3);

(c) devising a method to place license plates on the 5-year reissuance cycle to minimize production peaks and valleys;

(d) early registration renewals when an owner of a motor vehicle presents extenuating circumstances; and

(e) automated mailing of license plates by the department or its authorized agent, including an agent under contract with the department pursuant to 61-3-338.

(2) The department shall adopt rules to procure compliance with all of the laws of the state regulating the issuance of motor vehicle, trailer, semitrailer, or pole trailer licenses relating to the use and operation of motor vehicles, trailers, semitrailers, or pole trailers before issuing the lettered license plates pursuant to 61-3-423.

(3) The department may adopt rules to establish vehicle brands or carried-forward brands according to 61-3-202.

(4) The department may adopt rules governing affidavit and bond for certificate of title pursuant to 61-3-208.

(5) The department may adopt rules for the implementation and administration of temporary registration permits, pursuant to 61-3-224, including issuance to:

(a) a Montana resident who acquires a new or used motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet or longer, snowmobile, or off-highway vehicle for operation of the vehicle or vessel prior to titling and registration of the vehicle or vessel under Title 61, chapter 3;

(b) the owner of a salvage vehicle or a vehicle requiring a state-assigned vehicle identification number to move the vehicle to and from a designated inspection site prior to applying for a new certificate of title under 61-3-107 or 61-3-212;

(c) the owner of a motor vehicle, trailer, semitrailer, or pole trailer registered in this state for operation of the vehicle while awaiting production and receipt of special or duplicate license plates ordered for a vehicle under Title 61, chapter 3;

(d) a nonresident of this state who acquires a motor vehicle, trailer, semitrailer, or pole trailer in this state for operation of the vehicle prior to its titling and registration under the laws of the nonresident's jurisdiction of residence;

(e) a dealer licensed in another state who brings a motor vehicle or trailer designed and used to apply fertilizer to agricultural lands into the state for special demonstration in this state;

(f) a financial institution located in Montana for a prospective purchaser to demonstrate a motor vehicle that the financial institution has obtained following repossession;

(g) an insurer or its agent to move a motor vehicle or trailer to auction following acquisition of the vehicle by the insurer as a result of the settlement of an insurance claim;

(h) a nonresident owner to temporarily operate a quadricycle or motorcycle designed for off-road recreational use on the highways of this state when the quadricycle or motorcycle designed for off-road recreational use is equipped for use on the highways as prescribed in Title 61, chapter 9, but the quadricycle or motorcycle designated for off-road recreational use is not registered or is only registered for off-road use in the nonresident's home state; or

(i) a new owner of a motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for which the new owner cannot, due to circumstances beyond the new owner's control, surrender a previously assigned certification of title.

(6) The department may adopt rules for the assessment and collection of registration fees on light vehicles under 61-3-321 and 61-3-562, including the proration of fees under 61-3-520 and criteria for determining the motor vehicle's age.

(7) The department may adopt rules for imposing and collecting fees in lieu of tax, including:

(a) the proration of fees in lieu of tax under 61-3-520 on buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors;

(b) criteria for determining the motor vehicle's age; and

(c) criteria for determining the manufacturer's rated capacity.

(8) The department may adopt rules, pursuant to Title 61, chapter 3, for the administration of fees for trailers, semitrailers, and pole trailers, including criteria for determining a trailer's age and weight.

(9) The department shall adopt rules for generic specialty license plates issued pursuant to 61-3-472 through 61-3-481, including:

(a) the minimum and maximum number of characters that a generic specialty license plate may display;

(b) the general placement of the sponsor's name, identifying phrase, and graphic; and

(c) any specifications or limitations on the use or choice of color or detail in the sponsor's graphic design.

(10) The department may adopt rules governing dealers pursuant to the provisions of Title 61, chapter 4, including:

(a) the application and issuance of dealer licenses, including the qualifications of dealers, and the staggering of expiration dates pursuant to 61-4-101;

(b) the issuance of dealer, demonstrator, courtesy, and transit plates pursuant to 61-4-102, 61-4-128 through 61-4-130, 61-4-301, 61-4-307, and 61-4-308;

(c) the application and process for renewing a dealer license pursuant to 61-4-124; and

(d) governing the regulation of persons required to be licensed pursuant to Title 61, chapter 4, part 2.

(11) The department may adopt rules for local option tax appeals pursuant to 15-15-201.

(12) The department may adopt rules to implement any other provision of this title.

Section 23. Rulemaking authority – driver’s licenses and identification cards. (1) The department may adopt rules to administer and enforce the provisions of Title 61, chapter 5.

(2) The department may adopt rules governing acceptable methods of proof of identification, including name, date of birth, and authorized presence, that an individual must submit when applying for a license or identification card, including a new, renewal, or replacement license or identification card.

(3) The department may adopt rules governing the determination of the driver’s license expiration date, minimum and maximum license terms, and license renewal requirements for a driver’s license issued to a person who is a foreign national whose presence in the United States is temporarily authorized under federal law.

(4) The department shall adopt rules governing the calculation of grace periods for renewals and the calculation of other time periods established by statute or federal regulation.

(5) The department may adopt rules governing the renewal of a driver’s license by a person in the military assigned to active duty who had a valid Montana driver’s license at the time of entering active duty.

(6) The department shall adopt rules to set the standards for driver license examinations and reexaminations.

(7) The department may adopt rules to set the standards for photographs, certifications, and signature requirements for the issuance of driver’s licenses.

(8) The department shall adopt rules establishing the functional abilities and skills required to exercise ordinary and reasonable control to safely operate a motor vehicle. The rules:

(a) must include operational restrictions based on the driver’s ability and skills;

(b) may direct the design of one or more types of skills tests. A skills test may consist of:

(i) a comprehensive assessment of a person’s functional abilities by means of an actual demonstration of the applicant’s ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle; or

(ii) a more limited assessment of a person’s functional abilities, conducted at the discretion of the department, as related to a specific physical or mental condition or conditions or a request for reexamination.

(c) must include appropriate licensing criteria relating to the use of adaptive equipment or operational limits that can be readily discerned by law enforcement or a licensing agency in another jurisdiction.

(9) The department shall adopt rules establishing vision requirements for a person to safely operate a motor vehicle. The rules:

(a) must include the minimum uncorrected or corrected visual acuity requirements for both unrestricted and restricted licenses and operational restrictions based on the visual acuity of an applicant or licensee, including the use of bioptic lenses; and

(b) may include minimum field of vision and depth perception requirements for both unrestricted and restricted licenses.

(10) The rules in subsections (8) and (9):

(a) may take into consideration any nationally recognized standards or recommended practices or standards of other jurisdictions for assessment of a person's functional abilities and skills;

(b) may be derived from medical guidelines and information compiled by driver licensing medical advisory or review boards from other jurisdictions, as well as information received from advocacy groups for persons with disabilities and senior citizens; and

(c) except as provided in 61-5-105, may not use a person's age or a person's physical or mental disability, limitation, or condition as a justification for the denial of a license.

(11) The department shall adopt rules governing the issuance of a restricted learner license, including when the department may issue a restricted learner license to allow for a driver to practice driving skills.

(12) The department shall adopt rules governing the issuance of a hardship license to a person who is at least 13 years of age and because of individual hardship needs a restricted driver's license, including a person who holds a learner license under 61-5-106. The department must consider, among other criteria, whether a hardship license is needed because the applicant's parent or guardian is not available to accompany the licensee, whether due to employment or circumstances related to the operation of a farm or ranch or because the parent or guardian does not hold a valid driver's license, and the licensee is required to drive to the licensee's school bus stop.

(13) The department may adopt rules governing probationary licenses, including:

(a) issuance to a person whose license has been suspended or revoked or whose license is subject to a discretionary suspension or revocation;

(b) the establishment of restrictions placed on a probationary license;

(c) the expiration of a probationary license;

(d) the cancellation of a probationary license for violating the restrictions on the probationary license or for another law violation; and

(e) the issuance, withdrawal, and monitoring of a restricted-use driving permit issued under 61-5-232.

(14) The department may adopt rules governing the requirements for a veteran designation on a driver's license or identification card.

(15) The department may adopt rules governing the issuance of a replacement driver's license.

(16) The department may adopt rules governing the certification process for cooperative driver testing program instructors.

(17) The department may adopt rules for the implementation of online driver's license renewal.

(18) The department shall adopt rules governing the issuance, renewal, and cancellation of identification cards that align with the proof of identity, residence, and authorized presence standards for a driver's license.

(19) The department may adopt rules for determining moving violations.

(20) The department may adopt rules for charging a fee for not appearing at a scheduled commercial skills test or motorcycle test and for the waiver of the fee for good cause shown.

(21) The department may adopt rules governing the conditions under which an applicant is eligible to receive a driver's license or identification card by expedited service and to set the fee for expedited service.

(22) The department may adopt rules to implement any other provision of this title.

Section 24. Rulemaking authority – commercial driver licensing.

(1) The department shall adopt rules governing the classification of commercial driver's licenses and related endorsements and the examination of commercial driver's license applicants and renewal applicants that the department considers necessary for the safety and welfare of the traveling public. The rules must:

(a) subject to the department's functional and vision requirements, conform to the licensing standards and requirements of 49 CFR, part 383, the medical qualification of 49 CFR, part 391, and the security threat assessment provisions of 49 CFR, part 1572;

(b) allow for the issuance of an interstate commercial driver's license;

(c) allow for the issuance of an intrastate-only commercial driver's license, including the establishment of medical qualification and visual acuity standards;

(d) establish the requirement for the issuance of a seasonal commercial driver's license, including the waiver of the knowledge and skills test for a qualified person employed in a farm-related service industry;

(e) establish the operational and seasonal restrictions for a seasonal commercial driver's license;

(f) establish the requirements for the medical statement that must be submitted for a person to be qualified for a commercial driver's license; and

(g) allow for and establish the requirements for the issuance of a commercial learner's permit.

(2) The department shall adopt rules governing the minimum standards for certification of a third-party commercial driver testing program and any test waiver under 61-5-118 and governing the certification, operation, and monitoring of third-party skills testing programs. The rules must:

(a) substantially comply with the licensing standards and requirements of 49 CFR, part 383, and the state compliance standards of 49 CFR, part 384, including:

(i) issuance of a commercial driver's license skills testing certificate to a certified program upon execution of a third-party skills testing agreement;

(ii) requiring that all third-party skills test examiners meet minimum qualifications, including passing background checks paid for by the third-party testing program and successfully completing a formal skills test examiner training course;

(iii) providing examiner test limitations, minimum testing standards, and refresher training requirements; and

(iv) requiring recordkeeping and a detailed audit program that includes overt and covert test monitoring and onsite audits by state and federal personnel;

(b) specifically address the requirements for certifying third-party commercial driver testing programs, including place of business, appropriate bond and liability insurance, and facilities requirements; and

(c) specify minimum technology requirements for recordkeeping, scheduling applicants for the skills test, conducting the skills test, and electronically transferring skills test results to the department.

(3) The department shall adopt rules governing the waiver of knowledge and skills tests related to commercial vehicle operators with military experience.

Section 25. Other rulemaking authority. (1) The department shall adopt rules to identify the entity or entities that may qualify for grants under 61-3-415 and to establish criteria that an entity must meet to receive grant funds.

(2) The department may adopt rules for the application, certification, and determination of the ability of a self-insurer to pay any judgment under 61-6-143.

(3) The department may adopt rules for individuals who are exempt from wearing seatbelts under 61-13-103.

(4) The department shall adopt rules governing sales, including sales of receipts by county treasurers and other authorized agents.

(5) The department may adopt rules governing the cancellation of received services upon receipt of an insufficient funds check in payment for a service.

(6) The department may adopt rules for the implementation of the Montana Driver Privacy Protection Act, including procedures for:

(a) verifying the identity of a person requesting personal information;

(b) maintaining records for release of personal information by the department or by any recipient under Title 61, chapter 11, part 5; and

(c) providing for oversight of sale or disclosure of personal information to third parties.

(7) The department may adopt rules for governing recordkeeping, including the destruction of records.

Section 26. Repealer. The following sections of the Montana Code Annotated are repealed:

61-3-315. Rules -- early renewal.

61-3-506. Rules.

61-4-532. Rulemaking.

61-5-125. Authority of department -- rulemaking authority.

61-11-516. Rulemaking.

Section 27. Codification instruction. [Sections 21 through 25] are intended to be codified as an integral part of Title 61, and the provisions of Title 61 apply to [sections 21 through 25].

Section 28. Coordination instruction. If House Bill No. 355 and [this act] are passed and approved and if both contain a section that amends subsection (8) of 61-3-321, then subsection (8) of 61-3-321 must be amended as follows:

“(8) (a) (i) Except as provided in ~~subsection~~ *subsections (8)(b), (8)(c), and (15)*, the one-time registration fee for motorcycles and quadricycles registered for use on the public highways is \$53.25, *the one-time registration fee for motorcycles and quadricycles registered for off-highway use is \$53.25*, and the one-time registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways is \$114.50.

(b)(ii) An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(b) (i) *The annual registration fee for motorcycles and quadricycles registered for use on the public highways under 61-3-701 is \$44.*

(ii) *The annual registration fee for motorcycles and quadricycles registered for off-highway use under 61-3-701 is \$44.*

(iii) *The annual registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways under 61-3-701 is \$88.*

(iv) *An additional safety fee of \$7 must be collected annually for each motorcycle or quadricycle registered under 61-3-701. The safety fee must be deposited in the state motorcycle safety account provided for in 20-25-1002.*

(c) *Whenever a valid summer motorized recreation trail pass issued pursuant to [section 2 of House Bill No. 355] is affixed to a motorcycle or quadricycle, the one-time registration fee for motorcycles and quadricycles registered for:*

(i) use on public highways is \$33.25; and

(ii) both off-road use and for use on the public highways is \$94.50."

Section 29. Coordination instruction. If House Bill No. 412 and [this act] are both passed and approved and if House Bill No. 412 amends 61-3-315 and [this act] repeals 61-3-315, then [section 22 of this act] must be amended as follows:

"NEW SECTION. Section 22. Rulemaking authority -- vehicle services. (1) The department shall adopt rules for the registration of motor vehicles, including:

(a) simultaneous registration of multiple motor vehicles that have common ownership;

(b) *provision of notice of the text of 61-3-303(5)(c)(i) with the mail renewal notice from the department;*

(b)(c) verification of compliance with 61-6-301 before registering or renewing a registration of a vehicle or issuing new license plates required by 61-3-332(3);

(c)(d) devising a method to place license plates on the 5-year reissuance cycle to minimize production peaks and valleys;

(d) ~~governing the renewal of registration pursuant to 61-3-312;~~

(e)(e) early registration renewals when an owner of a motor vehicle presents extenuating circumstances; and

(f)(f) automated mailing of license plates by the department or its authorized agent, including an agent under contract with the department pursuant to 61-3-338.

(2) The department shall adopt rules to procure compliance with all of the laws of the state regulating the issuance of motor vehicle, trailer, semitrailer, or pole trailer licenses relating to the use and operation of motor vehicles, trailers, semitrailers, or pole trailers before issuing the lettered license plates pursuant to 61-3-423.

(3) The department may adopt rules to establish vehicle brands or carried-forward brands according to 61-3-202.

(4) The department may adopt rules governing affidavit and bond for certificate of title pursuant to 61-3-208.

(5) The department may adopt rules for the implementation and administration of temporary registration permits, pursuant to 61-3-224, including issuance to:

(a) a Montana resident who acquires a new or used motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet or longer, snowmobile, or off-highway vehicle for operation of the vehicle or vessel prior to titling and registration of the vehicle or vessel under Title 61, chapter 3;

(b) the owner of a salvage vehicle or a vehicle requiring a state-assigned vehicle identification number to move the vehicle to and from a designated inspection site prior to applying for a new certificate of title under 61-3-107 or 61-3-212;

(c) the owner of a motor vehicle, trailer, semitrailer, or pole trailer registered in this state for operation of the vehicle while awaiting production and receipt of special or duplicate license plates ordered for a vehicle under Title 61, chapter 3;

(d) a nonresident of this state who acquires a motor vehicle, trailer, semitrailer, or pole trailer in this state for operation of the vehicle prior to its titling and registration under the laws of the nonresident's jurisdiction of residence;

(e) a dealer licensed in another state who brings a motor vehicle or trailer designed and used to apply fertilizer to agricultural lands into the state for special demonstration in this state;

(f) a financial institution located in Montana for a prospective purchaser to demonstrate a motor vehicle that the financial institution has obtained following repossession;

(g) an insurer or its agent to move a motor vehicle or trailer to auction following acquisition of the vehicle by the insurer as a result of the settlement of an insurance claim;

(h) a nonresident owner to temporarily operate a quadricycle or motorcycle designed for off-road recreational use on the highways of this state when the quadricycle or motorcycle designed for off-road recreational use is equipped for use on the highways as prescribed in Title 61, chapter 9, but the quadricycle or motorcycle designated for off-road recreational use is not registered or is only registered for off-road use in the nonresident's home state; or

(i) a new owner of a motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for which the new owner cannot, due to circumstances beyond the new owner's control, surrender a previously assigned certification of title.

(6) The department may adopt rules for the assessment and collection of registration fees on light vehicles under 61-3-321 and 61-3-562, including the proration of fees under 61-3-520 and criteria for determining the motor vehicle's age.

(7) The department may adopt rules for imposing and collecting fees in lieu of tax, including:

(a) the proration of fees in lieu of tax under 61-3-520 on buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors;

(b) criteria for determining the motor vehicle's age; and

(c) criteria for determining the manufacturer's rated capacity.

(8) The department may adopt rules, pursuant to Title 61, chapter 3, for the administration of fees for trailers, semitrailers, and pole trailers, including criteria for determining a trailer's age and weight.

(9) The department shall adopt rules for generic specialty license plates issued pursuant to 61-3-472 through 61-3-481, including:

(a) the minimum and maximum number of characters that a generic specialty license plate may display;

(b) the general placement of the sponsor's name, identifying phrase, and graphic; and

(c) any specifications or limitations on the use or choice of color or detail in the sponsor's graphic design.

(10) The department may adopt rules governing dealers pursuant to the provisions of Title 61, chapter 4, including:

(a) the application and issuance of dealer licenses, including the qualifications of dealers, and the staggering of expiration dates pursuant to 61-4-101;

(b) the issuance of dealer, demonstrator, courtesy, and transit plates pursuant to 61-4-102, 61-4-128 through 61-4-130, 61-4-301, 61-4-307, and 61-4-308;

(c) the application and process for renewing a dealer license pursuant to 61-4-124; and

(d) governing the regulation of persons required to be licensed pursuant to Title 61, chapter 4, part 2.

~~(11) The department may adopt rules governing new motor vehicle warranties remedies pursuant to Title 61, chapter 4, part 5.~~

~~(12)(11)~~ The department may adopt rules for local option tax appeals pursuant to 15-15-201.

~~(13)(12)~~ The department may adopt rules to implement any other provision of this title."

Section 30. Coordination instruction. If Senate Bill No. 65 and [this act] are both passed and approved and if Senate Bill No. 65 amends 61-5-125 and [this act] repeals 61-5-125, then [section 23 of this act] must be amended as follows:

"NEW SECTION. Section 23. Rulemaking authority – driver's licenses and identification cards. (1) The department may adopt rules to administer and enforce the provisions of Title 61, chapter 5.

(2) The department may adopt rules governing acceptable methods of proof of identification, including name, date of birth, and authorized presence, that an individual must submit when applying for a license or identification card, including a new, renewal, or replacement license or identification card.

(3) The department may adopt rules governing the determination of the driver's license expiration date, minimum and maximum license terms, and license renewal requirements for a driver's license issued to a person who is a foreign national whose presence in the United States is temporarily authorized under federal law.

(4) The department shall adopt rules governing the calculation of grace periods for renewals and the calculation of other time periods established by statute or federal regulation.

(5) The department may adopt rules governing the renewal of a driver's license by a person in the military assigned to active duty who had a valid Montana driver's license at the time of entering active duty.

(6) The department shall adopt rules to set the standards for driver license examinations and reexaminations.

(7) The department may adopt rules to set the standards for photographs, certifications, and signature requirements for the issuance of driver's licenses.

(8) The department shall adopt rules establishing the functional abilities and skills required to exercise ordinary and reasonable control to safely operate a motor vehicle. The rules:

(a) must include operational restrictions based on the driver's ability and skills;

(b) may direct the design of one or more types of skills tests. A skills test may consist of:

(i) a comprehensive assessment of a person's functional abilities by means of an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle; or

(ii) a more limited assessment of a person's functional abilities, conducted at the discretion of the department, as related to a specific physical or mental condition or conditions or a request for reexamination.

(c) must include appropriate licensing criteria relating to the use of adaptive equipment or operational limits that can be readily discerned by law enforcement or a licensing agency in another jurisdiction.

(9) The department shall adopt rules establishing vision requirements for a person to safely operate a motor vehicle. The rules:

(a) must include the minimum uncorrected or corrected visual acuity requirements for both unrestricted and restricted licenses and operational

restrictions based on the visual acuity of an applicant or licensee, including the use of bioptic lenses; and

(b) may include minimum field of vision and depth perception requirements for both unrestricted and restricted licenses.

(10) The rules in subsections (8) and (9):

(a) may take into consideration any nationally recognized standards or recommended practices or standards of other jurisdictions for assessment of a person's functional abilities and skills;

(b) may be derived from medical guidelines and information compiled by driver licensing medical advisory or review boards from other jurisdictions, as well as information received from advocacy groups for persons with disabilities and senior citizens; and

(c) except as provided in 61-5-105, may not use a person's age or a person's physical or mental disability, limitation, or condition as a justification for the denial of a license.

(11) The department shall adopt rules governing the issuance of a restricted learner license, including when the department may issue a restricted learner license to allow for a driver to practice driving skills.

(12) The department shall adopt rules governing the issuance of a hardship license to a person who is at least 13 years of age and because of individual hardship needs a restricted driver's license, including a person who holds a learner license under 61-5-106. The department must consider, among other criteria, whether a hardship license is needed because the applicant's parent or guardian is not available to accompany the licensee, whether due to employment or circumstances related to the operation of a farm or ranch or because the parent or guardian does not hold a valid driver's license, and the licensee is required to drive to the licensee's school bus stop.

(13) The department may adopt rules governing probationary licenses, including:

(a) issuance to a person whose license has been suspended or revoked or whose license is subject to a discretionary suspension or revocation;

(b) the establishment of restrictions *and duration* placed on a probationary license;

(c) the expiration of a probationary license;

~~(d) the cancellation of a probationary license for violating the restrictions on the probationary license or for another law violation; and~~

(d) issuance and cancellation of probationary or restricted driver licenses, including the requirements for issuing a probationary license when the person is convicted in an out-of-state jurisdiction;

(e) the determination of the appropriate sanction to apply based on a conviction or administrative action, including the duration and requirements for restoration;

(f) the procedures for the collection, distribution, and strict accountability of any funds received for fees collected for an implied consent refusal; and

~~(e)(g)~~ the issuance, withdrawal, and monitoring of a restricted-use driving permit issued under 61-5-232.

(14) The department may adopt rules governing the requirements for a veteran designation on a driver's license or identification card.

(15) The department may adopt rules governing the issuance of a replacement driver's license.

(16) The department may adopt rules governing the certification process for cooperative driver testing program instructors.

(17) The department may adopt rules for the implementation of online driver's license renewal.

(18) The department shall adopt rules governing the issuance, renewal, and cancellation of identification cards that align with the proof of identity, residence, and authorized presence standards for a driver's license.

(19) The department may adopt rules for determining moving violations.

(20) The department may adopt rules for charging a fee for not appearing at a scheduled commercial skills test or motorcycle test and for the waiver of the fee for good cause shown.

(21) The department may adopt rules governing the conditions under which an applicant is eligible to receive a driver's license or identification card by expedited service and to set the fee for expedited service.

(22) The department may adopt rules to implement any other provision of this title."

Section 31. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 5(8)] is effective January 1, 2020.

Approved May 7, 2019

CHAPTER NO. 336

[SB 358]

AN ACT REVISING RESORT AREA ALCOHOLIC BEVERAGE LICENSURE LAWS; CREATING RESORT AREA DETERMINATION REQUIREMENTS; PROVIDING FOR APPLICATIONS; PROVIDING FEES; PROVIDING RULEMAKING AUTHORITY; ALLOWING FOR RESORT AREA ALL-BEVERAGES LICENSES; PROVIDING AN EXCEPTION TO LICENSE LIMITATIONS; AMENDING SECTIONS 16-4-203, 16-4-205, 16-4-210, 16-4-401, 16-4-402, 16-4-501, 16-4-1005, AND 23-5-119, MCA; REPEALING SECTION 16-4-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Resort area – purpose – policy. It is the intent and purpose of [sections 1 through 3] to encourage the growth of quality recreational resort facilities in undeveloped areas of the state and to provide for the orderly growth of existing recreational sites by the establishment of resort areas within which retail all-beverages licenses may be issued by the department under the terms of [section 3].

Section 2. Resort area determination. (1) To obtain a resort area designation, the resort area developer or landowner must submit an application with a plat setting forth the resort area boundaries and designating the ownership of the lands within the resort area. The plat must show the location and general design of the buildings and other improvements existing or to be built in the resort area. A master plan for the development of the resort area may be filed by the resort area developer in satisfaction of this section.

(2) (a) In addition to the other requirements of this code, at the time of application, a resort area must:

(i) not be located within the boundaries of a quota area as described in 16-4-201;

(ii) have a current actual valuation of resort or recreational facilities, including land and improvements, of not less than \$1,000,000, at least half of which valuation must be for a structure or structures within the resort area;

(iii) be under the sole ownership or control of one person or entity;

(iv) contain a minimum of 50 acres of land; and

(v) provide details of the recreational facilities that are or will be on the grounds of the resort that warrant the resort designation being granted. These recreational facilities must be completed prior to licenses being issued in [section 3].

(b) For the purposes of this section, "control" means land or improvements that are owned or that are held under contract, lease, option, or permit.

(3) Within 15 business days after the application is filed, the department shall schedule a public hearing to be held in the proposed area to determine whether the facility proposed by the resort area developer or landowner is a resort area. At least 30 days prior to the date of the hearing, the department shall publish notice of the hearing in a newspaper published in the county or counties in which the resort area is located, once a week for 4 consecutive weeks. The notice must include a description of the proposed resort area. The resort area developer or landowner shall, at the time of filing an application, pay to the department an amount sufficient to cover the costs of publication.

(4) A person may present, in person or in writing, a statement to the department at the hearing in opposition to or in support of the application.

(5) Within 30 days after the hearing, the department shall approve or deny the application. If the application is denied, the applicant may request a review of the decision of the department pursuant to the Montana Administrative Procedure Act.

(6) Once a resort area has been approved by the department, the boundaries of a resort area may not be changed without a new application.

Section 3. Resort retail all-beverages licenses. (1) After a resort area has been approved, applications may be filed with the department for the issuance of resort retail all-beverages licenses within the resort area.

(2) (a) Except as provided in subsections (2)(b) and (2)(c), the department may issue one resort retail all-beverages license for the first 100 accommodation units and an additional license for each additional 50 accommodation units within an approved resort area as long as the recreational facilities under [section 2] have also been completed.

(b) For a resort area with a perimeter containing at least 1,000 contiguous acres that has a current actual valuation of completed recreational facilities, including land and improvements, of not less than \$30 million, the department may issue up to 10 resort retail all-beverages licenses regardless of the number of accommodation units.

(c) A resort area designation application to the department that received approval prior to January 1, 1999, is entitled to the issuance of one resort retail all-beverages license for a \$20,000 license fee. Any additional resort retail all-beverages licenses issued to a resort area under this subsection (2)(c) must meet the accommodation unit requirement in subsection (2)(a) of this section and pay the license fee and renewal fees as provided in 16-4-501.

(d) For purposes of this code, "accommodation unit" means a unit that is available for short-term guest rental and includes:

(i) a single-family home;

(ii) a single unit of an apartment, condominium, or multi-plex;

(iii) a single room of a hotel or motel; or

(iv) similar living space for occupants making up a single household. A space under this subsection (2)(d)(iv) must be distinctly separated from other

living spaces within the building and have its own sleeping, bath, and toilet facilities.

(3) Regardless of how many resort area all-beverages licenses are issued in a resort area, no more than 20 gambling machine permits may be issued for the resort area.

(4) A resort retail all-beverages license within the resort area:

(a) is subject to all other requirements of an all-beverages license in this code;

(b) is not subject to the quota limitations set forth in 16-4-201; and

(c) is transferable to another location within the boundaries of the resort area or to another owner to be used at a location within the boundaries of the resort area.

(5) For licenses issued under this section, the delivery of alcohol is allowed to the accommodation units on the designated resort area property as long as the purchaser is present, the purchaser's age is verified, and the purchaser is not intoxicated.

(6) Employees of the resort licensee who sell, serve, or deliver alcohol must be trained as provided in 16-4-1005.

Section 4. Section 16-4-203, MCA, is amended to read:

"16-4-203. Determination of public convenience and necessity.

(1) An original license issued pursuant to 16-4-104, 16-4-201, ~~16-4-202~~ [section 3], or 16-4-208 or the transfer of location of an on-premises retail license may be approved if the department does not receive the minimum number of protests required for a public convenience and necessity determination pursuant to 16-4-207, in which case the application must be regarded as a prima facie showing of public convenience and necessity and no further determination of public convenience and necessity is allowed.

(2) (a) If the department receives at least the minimum number of protests required for a public convenience and necessity determination, as provided in 16-4-207, an application must be approved when evidence indicates that the issuance of an original license or transfer of location will materially promote the public's ability to engage in the licensed activity.

(b) The issuance of an original license or a transfer of location will materially promote the public's ability to engage in the licensed activity if:

(i) the applicant's history and experience demonstrate the capacity to operate the proposed license in a lawful manner;

(ii) the approval of the application for the premises at the proposed location is consistent with the public's demand or probable demand for the licensed activity that presently exists or is reasonably expected to exist within the next 5 years in the quota area where the proposed premises is located and in quota areas adjacent to the quota area where the proposed premises is located;

(iii) the approval of the application for the premises at the proposed location contributes to the public's ability to participate in the licensed activity throughout the quota area where the proposed premises is located and quota areas adjacent to the quota area where the proposed premises is located;

(iv) the approval of the application for the premises at the proposed location is consistent with adopted or pending planning, annexation, and zoning ordinances of local governments that confer or will confer jurisdiction over business and developments such as the proposed license in the quota area where the proposed premises is located and in quota areas adjacent to the quota area where the proposed premises is located.

(3) When determining whether or not an application is justified by public convenience and necessity, the department may:

(a) receive evidence at the public hearing specified in 16-4-207 only from the applicant, any protestors whose protests the department has accepted

pursuant to 16-4-207, and any other person summoned or called by either a protestor or applicant;

(b) find that the application is justified by public convenience and necessity if the applicant has provided substantial credible evidence as provided for in this subsection (3) that shows that the department's approval of the application will materially promote the public's ability to engage in the licensed activity. The substantial credible evidence required must include a consideration of each of the components of materially promoting the public's ability to engage in the licensed activity as provided in subsection (2)(b).

(4) For the purposes of this section, the following definitions apply:

(a) "Confer or will confer jurisdiction" means the power or authority that a local government or an appointed subsidiary of a local government has or may obtain within 1 year from the date of the hearing to consider and adopt planning, annexation, or zoning ordinances.

(b) "Licensed activity" means the purchase of alcoholic beverages for on-premises consumption in a business licensed to sell alcoholic beverages at retail for on-premises consumption.

(c) "Pending planning, annexation, and zoning ordinances" means the ordinances of a local government or an appointed subsidiary of a local government that were publicly considered within the year preceding the date of the hearing or are presently being considered."

Section 5. Section 16-4-205, MCA, is amended to read:

"16-4-205. Limitation on number of licenses – business in name of licensee. (1) Subject to the provisions of 16-4-401, a person may not be issued more than three all-beverages licenses, with the exception of:

(a) *resort retail all-beverages licenses issued under [section 3], which do not count toward this limit; and*

(b) a secured party issued an additional all-beverages license as the result of a default. A secured party shall transfer ownership of any additional all-beverages license within 180 days of issuance. A business may not be carried on under any license issued under this chapter except in the name of the licensee.

(2) The provisions of this section do not apply to licenses held by the Montana heritage preservation and development commission under the provisions of 16-4-305."

Section 6. Section 16-4-210, MCA, is amended to read:

"16-4-210. Resort license – tour boat endorsement. (1) A holder of a resort all-beverages license issued under ~~16-4-202~~ *[section 3]* may be issued a tour boat endorsement to allow the sale of alcoholic beverages to passengers on boats at least 40 feet in length and equipped to carry at least 50 passengers.

(2) The endorsement must be issued upon written application to the department and submission of an annual fee of \$200. The applicant must also submit proof:

(a) of compliance with the following requirements:

(i) county health department inspection and approval of food services offered on the boat;

(ii) inspection and approval by the department of fish, wildlife, and parks of boat safety equipment requirements;

(iii) current boat registration; and

(iv) business liability insurance coverage; and

(b) that the registered owner of the tour boat is:

(i) a resort all-beverages licensee;

(ii) an individual named on a resort all-beverages license; or

(iii) a stockholder owning 10% or more of any class of stock in a corporate resort all-beverages license.

(3) Alcoholic beverages may be sold pursuant to the endorsement authorized in subsection (1) only while the boat is underway within 30 miles of the resort boundary or is in preparation for scheduled departure. Except as provided in this subsection, no alcoholic beverages may be sold or served when the boat is secured at its or any other mooring.

(4) Sale of alcoholic beverages under the endorsement is subject to all other requirements imposed for any all-beverages license issued under this part."

Section 7. Section 16-4-401, MCA, is amended to read:

"16-4-401. License as privilege -- criteria for decision on application.

(1) A license under this code is a privilege that the state may grant to an applicant and is not a right to which any applicant is entitled.

(2) Except as provided in 16-4-311 and subsection (6) of this section and subject to subsection (8), in the case of a license that permits on-premises consumption, the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) if the applicant is an individual:

(i) and the application is approved, the applicant will not possess an ownership interest in more than three establishments licensed under this chapter for all-beverages sales; *However, resort retail all-beverages licenses issued under [section 3] do not count toward this limit.*

(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

(iii) the applicant or any member of the applicant's immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;

(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and

(v) the applicant is not under 19 years of age;

(b) if the applicant is a publicly traded corporation:

(i) each owner of 10% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a). If no single owner owns more than 10% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a).

(ii) each individual who has control over the operation of the license meets the requirements for an individual applicant listed in subsection (2)(a);

(iii) each person who shares in the profits or liabilities of a license meets the requirements for an individual applicant listed in subsection (2)(a). This subsection (2)(b)(iii) does not apply to a shareholder of a corporation who owns less than 10% of the outstanding stock in that corporation except that the provisions of subsection (8) apply.

(iv) the corporation is authorized to do business in Montana;

(c) if the applicant is a privately held corporation:

(i) each owner of 10% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a). If no single owner owns more than 10% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a), and

the owners of 51% of the outstanding stock must meet the requirements of subsection (2)(a).

(ii) each individual who has control over the operation of the license meets the requirements for an individual applicant listed in subsection (2)(a);

(iii) each person who shares in the profits or liabilities of a license meets the requirements for an individual applicant listed in subsection (2)(a). This subsection (2)(c)(iii) does not apply to a shareholder of a corporation who owns less than 10% of the outstanding stock in that corporation except that the provisions of subsection (8) apply.

(iv) the corporation is authorized to do business in Montana;

(d) if the applicant is a general partnership, each partner must meet the requirements of subsection (2)(a);

(e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all limited partners whose ownership interest in the partnership equals or exceeds 10% must meet the requirements of subsection (2)(a). If no single limited partner's interest equals or exceeds 10%, then 51% of all limited partners must meet the requirements of subsection (2)(a).

(f) if the applicant is a limited liability company, all managing members and those members whose ownership interest in the company equals or exceeds 10% must meet the requirements of subsection (2)(a). If no single member's interest equals or exceeds 10%, then 51% of all members must meet the requirements of subsection (2)(a).

(3) In the case of a license that permits only off-premises consumption and subject to subsection (8), the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) if the applicant is an individual:

(i) and the application is approved, the applicant will not possess an ownership interest in more than three establishments licensed under this chapter for all-beverages sales;

(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

(iii) the applicant or any member of the applicant's immediate family is without financing from or any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages;

(iv) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, the applicant's rights have been restored;

(v) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and

(vi) the applicant is not under 19 years of age;

(b) if the applicant is a publicly traded corporation:

(i) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed in subsection (3)(a). If no single owner owns more than 10% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (3)(a).

(ii) the corporation is authorized to do business in Montana;

(c) if the applicant is a privately held corporation:

(i) each owner of 10% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (3)(a). If no single owner owns more than 10% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet

the requirements for an individual applicant listed in subsection (3)(a), and the owners of 51% of the outstanding stock must meet the requirements of subsection (3)(a).

(ii) the corporation is authorized to do business in Montana;

(d) if the applicant is a general partnership, each partner must meet the requirements of subsection (3)(a);

(e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all limited partners whose ownership interest in the partnership equals or exceeds 10% must meet the requirements of subsection (3)(a). If no single limited partner's interest equals or exceeds 10%, then 51% of all limited partners must meet the requirements of subsection (3)(a).

(f) if the applicant is a limited liability company, all managing members and those members whose ownership interest in the company equals or exceeds 10% must meet the requirements of subsection (3)(a). If no single member's interest equals or exceeds 10%, then 51% of all members must meet the requirements of subsection (3)(a).

(4) Subject to 16-4-311, in the case of a license that permits the manufacture, importing, or wholesaling of an alcoholic beverage, the department shall find in every case in which it makes an order for the issuance of a new license or for the approval of the transfer of a license that:

(a) if the applicant is an individual:

(i) the applicant has no ownership interest in any establishment licensed under this chapter for retail alcoholic beverages sales;

(ii) the applicant does not possess an ownership interest in an agency liquor store as defined in 16-1-106;

(iii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, the applicant's rights have been restored;

(iv) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments;

(v) the applicant is not under 19 years of age; and

(vi) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or controlled by a manufacturer of an alcoholic beverage;

(b) if the applicant is a publicly traded corporation:

(i) each owner of 10% or more of the outstanding stock meets the requirements for an individual listed in subsection (4)(a). If no single owner owns more than 10% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (4)(a).

(ii) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or controlled by a manufacturer of an alcoholic beverage; and

(iii) the corporation is authorized to do business in Montana;

(c) if the applicant is a privately held corporation:

(i) each owner of 10% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (4)(a). If no single owner owns more than 10% of the outstanding stock, the applicant must designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (4)(a) and the owners of 51% of the outstanding stock must meet the requirements of subsection (4)(a).

(ii) an applicant for a wholesale license is not a manufacturer of an alcoholic beverage or owned or controlled by a manufacturer of an alcoholic beverage; and

(iii) the corporation is authorized to do business in Montana;

(d) if the applicant is a general partnership, each partner must meet the requirements of subsection (4)(a);

(e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all limited partners whose ownership interest in the partnership equals or exceeds 10% must meet the requirements of subsection (4)(a). If no single limited partner's interest equals or exceeds 10%, then 51% of all limited partners must meet the requirements of subsection (4)(a).

(f) if the applicant is a limited liability company, all managing members and those members whose ownership interest in the company equals or exceeds 10% must meet the requirements of subsection (4)(a). If no single member's interest equals or exceeds 10%, then 51% of all members must meet the requirements of subsection (4)(a).

(5) In the case of a corporate applicant, the requirements of subsections (2)(b), (3)(b), and (4)(b) apply separately to each class of stock.

(6) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant to 16-4-302.

(7) An applicant's source of funding must be from a suitable source. A lender or other source of money or credit may be found unsuitable if the source:

(a) is a person whose prior financial or other activities or criminal record:

(i) poses a threat to the public interest of the state;

(ii) poses a threat to the effective regulation and control of alcoholic beverages; or

(iii) creates a danger of illegal practices, methods, or activities in the conduct of the licensed business; or

(b) has been convicted of a felony offense within 5 years of the date of application or is on probation or parole or under deferred prosecution for committing a felony offense.

(8) (a) An individual applying for an all-beverages license or having any ownership interest in an entity applying for an all-beverages license may not, if the application were to be approved, own an interest in more than half the total number of allowable all-beverages licenses in any quota area described in 16-4-201.

(b) If two or more individuals through business or family relationship share in the profits or liabilities of all-beverages licenses, the aggregate number of licenses in which they share profits or liabilities may not exceed half the total number of allowable all-beverages licenses in the specific quota area in which the all-beverages licenses will be held."

Section 8. Section 16-4-402, MCA, is amended to read:

"16-4-402. (Temporary) Application – investigation. (1) Prior to the issuance of a license under this chapter, the applicant shall file with the department an application containing information and statements relative to the applicant and the premises where the alcoholic beverage is to be sold as required by the department.

(2) (a) Upon receipt of a completed application for a license under this code, accompanied by the necessary license fee ~~or letter of credit as provided in 16-4-501(7)(f)~~, the department of justice shall make a thorough investigation of all matters relating to the application. Based on the results of the investigation or on other information, the department shall determine whether:

(i) the applicant is qualified to receive a license;

(ii) the applicant's premises are suitable for the carrying on of the business; and

(iii) the requirements of this code and the rules promulgated by the department are met and complied with.

(b) This subsection (2) does not apply to a catering endorsement provided in 16-4-111 or 16-4-204(11), a retail beer and wine license for off-premises consumption as provided in 16-4-115, or a special permit provided in 16-4-301.

(c) For an original license application and an application for transfer of *ownership* or location of a license, the department of justice's investigation and the department's determination under this subsection (2) must be completed within 90 days of the receipt of a completed application. If information is requested from the applicant by either department, the time period in this subsection (2)(c) is tolled until the requested information is received by the requesting department. The time period is also tolled if the applicant requests and is granted a delay in the license determination or if the license is for premises that are to be altered, as provided in 16-3-311, or newly constructed. The basis for the tolling of the deadline must be documented.

(3) (a) Upon proof that an applicant made a false statement in any part of the original application, in any part of an annual renewal application, or in any hearing conducted pursuant to an application, the application for the license may be denied, and if issued, the license may be revoked.

(b) A statement on an application or at a hearing that is based upon a verifiable assertion made by a governmental officer, employee, or agent that an applicant relied upon in good faith may not be used as the basis of a false statement for a denial or revocation of a license.

(4) The department shall issue a conditional approval letter upon the last occurrence of either:

(a) completion of the investigation and determination provided for in subsection (2) if the department has not received information that would cause the department to deny the application; or

(b) a final agency decision that either denies or dismisses a protest against the approval of an application pursuant to 16-4-207.

(5) The conditional approval letter must state the reasons upon which the future denial of the application may be based. The reasons for denial of the application after the issuance of the conditional approval letter are as follows:

(a) there is false or erroneous information in the application;

(b) the premises are not approved by local building, health, or fire officials;

(c) there are physical changes to the premises that if known prior to the issuance of the conditional approval letter would have constituted grounds for the denial of the application or denial of the issuance of the conditional approval; or

(d) a final decision by a court exercising jurisdiction over the matter either reverses or remands the department's final agency decision provided for in subsection (4). (Terminates December 31, 2023--sec. 17, Ch. 5, Sp. L. November 2017.)

16-4-402. (Effective January 1, 2024) Application -- investigation.

(1) Prior to the issuance of a license under this chapter, the applicant shall file with the department an application containing information and statements relative to the applicant and the premises where the alcoholic beverage is to be sold as required by the department.

(2) (a) Upon receipt of a completed application for a license under this code, accompanied by the necessary license fee ~~or letter of credit as provided in 16-4-501(7)(f)~~, the department of justice shall make a thorough investigation of

all matters relating to the application. Based on the results of the investigation or on other information, the department shall determine whether:

- (i) the applicant is qualified to receive a license;
- (ii) the applicant's premises are suitable for the carrying on of the business;
- and
- (iii) the requirements of this code and the rules promulgated by the department are met and complied with.

(b) This subsection (2) does not apply to a catering endorsement provided in 16-4-111 or 16-4-204(4), a retail beer and wine license for off-premises consumption as provided in 16-4-115, or a special permit provided in 16-4-301.

(c) For an original license application and an application for transfer of location of a license, the department of justice's investigation and the department's determination under this subsection (2) must be completed within 90 days of the receipt of a completed application. If information is requested from the applicant by either department, the time period in this subsection (2)(c) is tolled until the requested information is received by the requesting department. The time period is also tolled if the applicant requests and is granted a delay in the license determination or if the license is for premises that are to be altered, as provided in 16-3-311, or newly constructed. The basis for the tolling of the deadline must be documented.

(3) (a) Upon proof that an applicant made a false statement in any part of the original application, in any part of an annual renewal application, or in any hearing conducted pursuant to an application, the application for the license may be denied, and if issued, the license may be revoked.

(b) A statement on an application or at a hearing that is based upon a verifiable assertion made by a governmental officer, employee, or agent that an applicant relied upon in good faith may not be used as the basis of a false statement for a denial or revocation of a license.

(4) The department shall issue a conditional approval letter upon the last occurrence of either:

(a) completion of the investigation and determination provided for in subsection (2) if the department has not received information that would cause the department to deny the application; or

(b) a final agency decision that either denies or dismisses a protest against the approval of an application pursuant to 16-4-207.

(5) The conditional approval letter must state the reasons upon which the future denial of the application may be based. The reasons for denial of the application after the issuance of the conditional approval letter are as follows:

- (a) there is false or erroneous information in the application;
- (b) the premises are not approved by local building, health, or fire officials;
- (c) there are physical changes to the premises that if known prior to the issuance of the conditional approval letter would have constituted grounds for the denial of the application or denial of the issuance of the conditional approval; or

(d) a final decision by a court exercising jurisdiction over the matter either reverses or remands the department's final agency decision provided for in subsection (4)."

Section 9. Section 16-4-501, MCA, is amended to read:

"16-4-501. License and permit fees. (1) Each beer licensee licensed to sell either beer or table wine only or both beer and table wine under the provisions of this code shall pay a license fee. Unless otherwise specified in this section, the fee is an annual fee and is imposed as follows:

- (a) (i) each brewer and each beer importer, wherever located, whose product is sold or offered for sale within the state, \$500;

- (ii) for each storage depot, \$400;
- (b) (i) each beer wholesaler, \$400; each winery, \$200; each table wine distributor, \$400;
- (ii) for each subwarehouse, \$400;
- (c) each beer retailer, \$200;
- (d) (i) for a license to sell beer at retail for off-premises consumption only, the same as a retail beer license;
- (ii) for a license to sell table wine at retail for off-premises consumption only, either alone or in conjunction with beer, \$200;
- (e) any unit of a nationally chartered veterans' organization, \$50.
- (2) The permit fee under 16-4-301(1) is computed at the following rate:
 - (a) \$10 a day for each day that beer and table wine are sold at events, activities, or sporting contests, other than those applied for pursuant to 16-4-301(1)(c); and
 - (b) \$1,000 a season for professional sporting contests or junior hockey contests held under the provisions of 16-4-301(1)(c).
- (3) The permit fee under 16-4-301(2) is \$10 for the sale of beer and table wine only or \$20 for the sale of all alcoholic beverages.
- (4) Passenger carrier licenses must be issued upon payment by the applicant of an annual license fee in the sum of \$300.
- (5) The annual license fee for a license to sell wine on the premises, when issued as an amendment to a beer-only license pursuant to 16-4-105, is \$200.
- (6) The annual renewal fee for:
 - (a) a brewer producing 10,000 or fewer barrels of beer, as defined in 16-1-406, is \$200; ~~and~~ *and*
 - (b) resort retail all-beverages licenses within a given resort area is \$2,000 for each license.
- (7) Except as provided in this section, each licensee licensed under the quotas of 16-4-201 shall pay an annual license fee as follows:
 - (a) for each license outside of incorporated cities and incorporated towns or in incorporated cities and incorporated towns with a population of less than 2,000, \$250 for a unit of a nationally chartered veterans' organization and \$400 for all other licensees;
 - (b) for each license in incorporated cities with a population of more than 2,000 and less than 5,000 or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, \$350 for a unit of a nationally chartered veterans' organization and \$500 for all other licensees;
 - (c) for each license in incorporated cities with a population of more than 5,000 and less than 10,000 or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, \$500 for a unit of a nationally chartered veterans' organization and \$650 for all other licensees;
 - (d) for each license in incorporated cities with a population of 10,000 or more or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, \$650 for a unit of a nationally chartered veterans' organization and \$800 for all other licensees;
 - (e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city or town; and where the premises of the applicant to be licensed are situated within 5 miles of the corporate boundaries of two or more incorporated cities or incorporated towns of different populations, the license fee chargeable by the

larger incorporated city or incorporated town applies and must be paid by the applicant. When the premises of the applicant to be licensed are situated within an incorporated town or incorporated city and any portion of the incorporated town or incorporated city is without a 5-mile limit, the license fee chargeable by the smaller incorporated town or incorporated city applies and must be paid by the applicant.

~~(f) an applicant for the issuance of an original license to be located in areas described in subsections (6) and (7)(d) shall provide an irrevocable letter of credit from a financial institution that guarantees that applicant's ability to pay a \$20,000 license fee. A successful applicant shall pay a one-time original license fee of \$20,000 for a license issued. The one-time license fee of \$20,000 may not apply to any transfer or renewal of a license issued prior to July 1, 1974. However, all licenses are subject to the specified annual renewal fees.~~

(f) an applicant for the issuance of a resort retail all-beverages license shall pay a \$100,000 license fee on issuance of the license. The resort retail all-beverages license may be transferred to another location within the boundaries of the resort area or to another owner to be used at a location within the boundaries of the resort area.

(8) The fee for one all-beverages license to a public airport is \$800. This license is nontransferable.

(9) The annual fee for a retail beer and wine license to the Yellowstone airport is \$400.

(10) The annual fee for a special beer and table wine license for a nonprofit arts organization under 16-4-303 is \$250.

(11) The annual fee for a distillery is \$600.

(12) The license fees provided in this section are exclusive of and in addition to other license fees chargeable in Montana for the sale of alcoholic beverages.

(13) In addition to other license fees, the department of revenue may require a licensee to pay a late fee of 33 1/3% of any license fee delinquent on July 1 of the renewal year or 1 year after the licensee's anniversary date, 66 2/3% of any license fee delinquent on August 1 of the renewal year or 1 year and 1 month after the licensee's anniversary date, and 100% of any license fee delinquent on September 1 of the renewal year or 1 year and 2 months after the licensee's anniversary date.

(14) All license and permit fees collected under this section must be deposited as provided in 16-2-108."

Section 10. Section 16-4-1005, MCA, is amended to read:

"16-4-1005. Licensees required to ensure training. A licensee shall:

(1) require each employee who is authorized to sell, ~~or serve, or deliver~~ alcoholic beverages in the normal course of employment and the employee's immediate supervisor to successfully complete training to ensure compliance with state law regarding the sale and service of alcoholic beverages. The training must be completed within 60 days of the employee's date of hire and every 3 years after the employee's initial training.

(2) maintain employment records verifying employee completion of the training required in subsection (1)."

Section 11. Section 23-5-119, MCA, is amended to read:

"23-5-119. Appropriate alcoholic beverage license for certain gambling activities. (1) Except as provided in subsection (3), to be eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6, an applicant must own in the applicant's name:

(a) a retail all-beverages license issued under 16-4-201, but the owner of a license transferred after July 1, 2007, pursuant to 16-4-204 is not eligible to offer gambling;

(b) except as provided in subsection (1)(c), a license issued prior to October 1, 1997, under 16-4-105, authorizing the sale of beer and wine for consumption on the licensed premises;

(c) a beer and wine license issued in an area outside of an incorporated city or town as provided in 16-4-105(1)(f). The owner of the license whose premises are situated outside of an incorporated city or town may offer gambling, regardless of when the license was issued, if the owner and premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(d) a retail beer and wine license issued under 16-4-109;

(e) a *resort* retail all-beverages license issued under ~~16-4-202~~ [section 3]; or

(f) a retail all-beverages license issued under 16-4-208.

(2) For purposes of subsection (1)(b), a license issued under 16-4-105 prior to October 1, 1997, may be transferred to a new owner or to a new location or transferred to a new owner and location by the department of revenue pursuant to the applicable provisions of Title 16. The owner of the license that has been transferred may offer gambling if the owner and the premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(3) Lessees of retail all-beverages licenses issued under 16-4-208 or beer and wine licenses issued under 16-4-109 who have applied for and been granted a gambling operator's license under 23-5-177 are eligible to offer and may be granted permits for gambling authorized under Title 23, chapter 5, part 3, 5, or 6.

(4) A license transferee or a qualified purchaser operating pending final approval under 16-4-404(6) who has been granted a gambling operator's license under 23-5-177 may be granted permits for gambling under Title 23, chapter 5, part 3, 5, or 6."

Section 12. Repealer. The following section of the Montana Code Annotated is repealed:

16-4-202. Resort retail all-beverages licenses.

Section 13. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 16, and the provisions of Title 16 apply to [sections 1 through 3].

Section 14. Effective date. [This act] is effective on passage and approval.

Section 15. Applicability. Existing resort area designations issued before [the effective date of this act] are not subject to the application requirements of [section 2] but are subject to [section 3]. On and after [the effective date of this act], resort area designations and resort retail all-beverages license applications will be reviewed and processed under the conditions set forth in [sections 2 and 3].

Approved May 7, 2019

CHAPTER NO. 337

[SB 363]

AN ACT GENERALLY REVISING CAMPAIGN FINANCE LAWS REGARDING PETITIONS TO QUALIFY A POLITICAL PARTY TO HOLD PRIMARY ELECTIONS; REQUIRING REPORTING OF CONTRIBUTIONS AND EXPENDITURES BY CERTAIN INDIVIDUALS AND COMMITTEES CONCERNING SUCH EFFORTS; PROVIDING PENALTIES; AMENDING SECTIONS 13-1-101 AND 13-37-121, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Qualifying minor political parties – reports required.

A person who spends or receives money in furtherance of an effort to qualify a minor political party for primary elections using the petitions described in 13-10-601(2) shall comply with the provisions of [sections 2 through 8].

Section 2. Definitions. For the purposes of [sections 2 through 8], the following definitions apply:

(1) (a) “Contribution” means:

(i) the receipt by a reporting entity of an advance, gift, loan, conveyance, deposit, payment, or distribution of money in furtherance of an effort to qualify a minor party for primary elections using a minor party petition;

(ii) an expenditure that is made in coordination with a minor party qualification committee formed by the minor party that is reportable by the minor party qualification committee as a contribution;

(iii) the receipt of funds transferred from another reporting entity for use in furtherance of an effort to qualify a minor party for primary elections using a minor party petition; or

(iv) the payment by a person other than a reporting entity of compensation for the personal services of another person that are rendered to the reporting entity in furtherance of an effort to qualify a minor party for primary elections using a minor party petition.

(b) The term does not mean services provided without compensation by individuals volunteering a portion or all of their time on behalf of the reporting entity.

(2) (a) “Expenditure” means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money made by a reporting entity in furtherance of an effort to qualify a minor party for primary elections using a minor party petition.

(b) The term does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection (1);

(ii) the cost of any bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iii) the cost of any communication by a membership organization or corporation to its members or stockholders or employees.

(3) “In furtherance of” means referring to or depicting a minor political party in a manner that is susceptible to no reasonable interpretation other than as a call for the political party to qualify to hold a primary election.

(4) “Minor party” means a political party that does not qualify to hold a primary election under 13-10-601(1).

(5) “Minor party petition” means a petition described by 13-10-601(2).

(6) “Minor party qualification committee” means a combination of two or more individuals or a person other than an individual organized in furtherance of an effort to qualify a minor political party for primary elections using a minor party petition.

(7) (a) “Reporting entity” means the following entities which receive at least \$500 in aggregate contributions in a calendar year or make at least \$500 in aggregate expenditures in a calendar year:

(i) except as provided by subsection (7)(b), an individual; or

(ii) a minor party qualification committee.

(b) The term does not mean an individual if the individual’s contributions and expenditures are otherwise reportable by a minor party qualification committee. This exception includes but is not limited to an individual who is a

signature gatherer if the signature gathering company, partnership, or other business organization that directly hires, supervises, and pays the individual is otherwise required to report as a minor party qualification committee under [sections 2 through 8].

Section 3. Organization statement. (1) Within 5 days of becoming a reporting entity, the reporting entity shall certify its name and complete address with the commissioner.

(2) A minor party qualification committee shall include the following additional information in the certification:

- (a) the name and address of the committee's treasurer;
- (b) the name and address of all officers, if any;
- (c) an organizational statement; and

(d) the name and address of the depository designated for depositing all contributions received and disbursing all expenditures made by the minor party qualification committee.

(3) Only a bank, credit union, savings and loan association, or building and loan association authorized to transact business in Montana may be designated as a depository under subsection (2).

Section 4. Reporting entity – reports required – exception. (1) A reporting entity shall keep detailed records of all contributions received and expenditures made by or on behalf of the reporting entity. If the reporting entity is a minor party qualification committee, the treasurer appointed pursuant to [section 3] shall keep the records on behalf of the minor party qualification committee.

(2) A reporting entity may not knowingly report a contribution in the name of any person other than the person by whom it was actually furnished.

(3) A reporting entity shall file periodic reports containing the information required by [section 6] pursuant to the dates required by [section 5].

(4) Records kept pursuant to this section must be preserved by the reporting entity for 4 years from the date prescribed in 13-10-601(2)(c) on which the signatures were presented or otherwise would have been presented to the election administrator.

(5) The commissioner may inspect records or accounts that must be kept pursuant to [sections 2 through 8], as long as the inspection is made during reasonable office hours.

(6) If a reporting entity is otherwise required to file a report under Title 13, chapter 37, part 2, concerning the same matters required to be reported under [sections 2 through 8], the reporting entity may not be required to file a duplicate report or duplicate information but shall file the information in one report.

Section 5. Reporting dates. (1) A reporting entity shall file reports quarterly, due on the 15th day of January, April, July, and October, beginning in the quarter in which the individual or minor party qualification committee becomes a reporting entity and ending when the reporting entity files a closing report as provided by subsection (4).

(2) The initial report must include contributions and expenditures prior to the time a person became a reporting entity until the 5th day before the date of filing of the initial report, even if the minor party petition subsequently fails to garner sufficient signatures to qualify the minor party for primary elections.

(3) (a) Subsequent periodic reports must cover the period of time from the closing of the previous report to 5 days before the date of filing of the next report.

(b) Reports required under subsection (1) must be filed quarterly until the reporting entity files a closing report, even if no contributions have been received or no expenditures have been made during the reporting period.

(4) (a) A reporting entity shall file a closing report whenever all debts and obligations relating to the effort in furtherance of qualifying a minor political party for primary elections are satisfied and further contributions or expenditures will not be received or made that relate to qualifying the minor political party for primary elections using the minor party petition.

(b) A closing report may be combined with the reporting entity's final quarterly report. However, the combined report must cover the period of time from the closing of the previous report until the date of filing of the combined quarterly and closing report.

(c) If the reporting entity does not file the closing report with the final quarterly report, the closing report must cover the period of the time from the closing of the last quarterly report until the date of the closing report.

(5) A reporting entity may file a combined opening and closing report if it otherwise comports with the requirements of this section.

Section 6. Content of reports. (1) The periodic reports required by [section 4] must contain information concerning contributions received or expenditures made by or on behalf of the reporting entity. The reports must contain the following information:

(a) for contributions received:

(i) the amount of cash on hand at the beginning of the reporting period;

(ii) the full name, mailing address, occupation, and employer, if any, of each person who has made aggregate contributions of \$35 or more;

(iii) for each person identified under subsection (1)(a)(ii), the aggregate amount of contributions made by that person within the reporting period and the total amount of contributions made by that person for all reporting periods;

(iv) the total sum of individual contributions made by the reporting entity and not reported under subsections (1)(a)(ii) and (1)(a)(iii);

(v) the name and address of each person from which the reporting entity received any transfer of funds for the purpose of furthering an effort to qualify a minor party for primary elections using a minor party petition, together with the amount and dates of all transfers;

(vi) each loan of funds designated for use or used in furtherance of an effort to qualify a minor party for primary elections using a minor party petition from any person during the reporting period, together with the full names, mailing addresses, occupations, and employers, if any, of the lender and endorsers, if any, and the date and amount of each loan;

(vii) the amount and nature of debts and obligations owed to a reporting entity relating to the reporting entity's effort to qualify a minor party for primary elections using a minor party petition, in the form prescribed by the commissioner;

(viii) an itemized account of proceeds that total less than \$35 from a person from mass collections made at fundraising events;

(ix) each contribution not otherwise listed under subsections (1)(a)(ii) through (1)(a)(viii) during the reporting period;

(x) the total sum of all contributions received by or for the reporting entity during the reporting period; and

(xi) other information that may be required by the commissioner to fully disclose the sources of funds used in furtherance of an effort to qualify a minor party for primary elections using a minor party petition.

(b) for expenditures made:

(i) the full name, mailing address, occupation, and principal place of business, if any, of each person to whom expenditures have been made by the

reporting entity during the reporting period, including the amount, date, and purpose of each expenditure and the total amount of expenditures made to each person;

(ii) the full name, mailing address, occupation, and principal place of business, if any, of each person to whom an expenditure for personal services, salaries, and reimbursed expenses has been made, including the amount, date, and purpose of that expenditure and the total amount of expenditures made to each person;

(iii) the total sum of expenditures made by the reporting entity during the reporting period;

(iv) the name and address of each person to which the reporting entity made any transfer of funds in furtherance of an effort to qualify a minor party for primary elections using a minor party petition, together with the amount and dates of all transfers;

(v) the name of any person to whom a loan was made during the reporting period using funds designated for the purpose of furthering an effort to qualify a minor party for primary elections using a minor party petition, including the full name, mailing address, occupation, and principal place of business, if any, of that person and the full names, mailing addresses, occupations, and principal places of business, if any, of the endorsers, if any, and the date and amount of each loan;

(vi) the amount and nature of debts and obligations owed by the reporting entity relating to the reporting entity's effort to qualify a minor party for primary elections using a minor party petition in a form prescribed by the commissioner; and

(vii) other information that may be required by the commissioner to fully disclose the disposition of funds used in furtherance of an effort to qualify a minor party for primary elections using a minor party petition.

(2) Reports of expenditures made to a consultant or other person that performs services for or on behalf of a reporting entity must be itemized and described in sufficient detail to disclose the specific services performed by the entity to which payment or reimbursement was made.

(3) Reports required by [section 4] must be verified as true, complete, and correct by the oath or affirmation of the individual filing the report.

Section 7. Forms. The commissioner shall prescribe reporting forms required for submissions under [sections 2 through 8].

Section 8. Penalties. A person who violates the reporting requirements of [sections 2 through 8] is subject to civil liability under 13-37-128(1) for an amount up to \$500 or three times the amount of the unlawful expenditures or contributions, whichever is greater.

Section 9. Section 13-1-101, MCA, is amended to read:

"13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Active elector" means an elector whose name has not been placed on the inactive list due to failure to respond to confirmation notices pursuant to 13-2-220 or 13-19-313.

(2) "Active list" means a list of active electors maintained pursuant to 13-2-220.

(3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(4) "Application for voter registration" means a voter registration form prescribed by the secretary of state that is completed and signed by an elector, is submitted to the election administrator, and contains voter registration information subject to verification as provided by law.

(5) “Ballot” means a paper ballot counted manually or a paper ballot counted by a machine, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots.

(6) (a) “Ballot issue” or “issue” means a proposal submitted to the people at an election for their approval or rejection, including but not limited to an initiative, referendum, proposed constitutional amendment, recall question, school levy question, bond issue question, or ballot question.

(b) For the purposes of chapters 35 and 37, an issue becomes a “ballot issue” upon certification by the proper official that the legal procedure necessary for its qualification and placement on the ballot has been completed, except that a statewide issue becomes a “ballot issue” upon preparation and transmission by the secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

(7) “Ballot issue committee” means a political committee specifically organized to support or oppose a ballot issue.

(8) “Candidate” means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or appointment as a candidate for public office as required by law;

(b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on the individual’s behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

(i) solicitation is made;

(ii) contribution is received and retained; or

(iii) expenditure is made; or

(c) an officeholder who is the subject of a recall election.

(9) (a) “Contribution” means:

(i) the receipt by a candidate or a political committee of an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to support or oppose a candidate or a ballot issue;

(ii) an expenditure, including an in-kind expenditure, that is made in coordination with a candidate or ballot issue committee and is reportable by the candidate or ballot issue committee as a contribution;

(iii) the receipt by a political committee of funds transferred from another political committee; or

(iv) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) “Contribution” *The term does not mean services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residences for a candidate or other individual.*

(c) *This definition does not apply to [sections 2 through 8].*

(10) “Coordinated”, including any variations of the term, means made in cooperation with, in consultation with, at the request of, or with the express prior consent of a candidate or political committee or an agent of a candidate or political committee.

(11) “De minimis act” means an action, contribution, or expenditure that is so small that it does not trigger registration, reporting, disclaimer, or

disclosure obligations under Title 13, chapter 35 or 37, or warrant enforcement as a campaign practices violation under Title 13, chapter 37.

(12) "Election" means a general, special, or primary election held pursuant to the requirements of state law, regardless of the time or purpose.

(13) (a) "Election administrator" means, except as provided in subsection (13)(b), the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections not administered by the county, the term means the school district clerk.

(b) As used in chapter 2 regarding voter registration, the term means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties even if the school election is administered by the school district clerk.

(14) (a) "Election communication" means the following forms of communication to support or oppose a candidate or ballot issue:

(i) a paid advertisement broadcast over radio, television, cable, or satellite;
(ii) paid placement of content on the internet or other electronic communication network;

(iii) a paid advertisement published in a newspaper or periodical or on a billboard;

(iv) a mailing; or
(v) printed materials.

(b) The term does not mean:

(i) an activity or communication for the purpose of encouraging individuals to register to vote or to vote, if that activity or communication does not mention or depict a clearly identified candidate or ballot issue;

(ii) a communication that does not support or oppose a candidate or ballot issue;

(iii) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, internet website, or other periodical publication of general circulation;

(iv) a communication by any membership organization or corporation to its members, stockholders, or employees; or

(v) a communication that the commissioner determines by rule is not an election communication.

(15) "Election judge" means a person who is appointed pursuant to Title 13, chapter 4, part 1, to perform duties as specified by law.

(16) (a) "Electioneering communication" means a paid communication that is publicly distributed by radio, television, cable, satellite, internet website, newspaper, periodical, billboard, mail, or any other distribution of printed materials, that is made within 60 days of the initiation of voting in an election, that does not support or oppose a candidate or ballot issue, that can be received by more than 100 recipients in the district voting on the candidate or ballot issue, and that:

(i) refers to one or more clearly identified candidates in that election;

(ii) depicts the name, image, likeness, or voice of one or more clearly identified candidates in that election; or

(iii) refers to a political party, ballot issue, or other question submitted to the voters in that election.

(b) The term does not mean:

(i) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, internet website, or other periodical publication of general circulation unless the facilities are owned or controlled by a candidate or political committee;

(ii) a communication by any membership organization or corporation to its members, stockholders, or employees;

(iii) a commercial communication that depicts a candidate's name, image, likeness, or voice only in the candidate's capacity as owner, operator, or employee of a business that existed prior to the candidacy;

(iv) a communication that constitutes a candidate debate or forum or that solely promotes a candidate debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

(v) a communication that the commissioner determines by rule is not an electioneering communication.

(17) "Elector" means an individual qualified to vote under state law.

(18) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value:

(i) made by a candidate or political committee to support or oppose a candidate or a ballot issue; or

(ii) used or intended for use in making independent expenditures or in producing electioneering communications.

(b) ~~"Expenditure"~~ *The term does not mean:*

(i) services, food, or lodging provided in a manner that they are not contributions under subsection (9);

(ii) payments by a candidate for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;

(iii) the cost of any bona fide news story, commentary, blog, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees.

(c) This definition does not apply to [sections 2 through 8].

(19) "Federal election" means an election in even-numbered years in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

(20) "General election" means an election that is held for offices that first appear on a primary election ballot, unless the primary is canceled as authorized by law, and that is held on a date specified in 13-1-104.

(21) "Inactive elector" means an individual who failed to respond to confirmation notices and whose name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

(22) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

(23) (a) "Incidental committee" means a political committee that is not specifically organized or operating for the primary purpose of supporting or opposing candidates or ballot issues but that may incidentally become a political committee by receiving a contribution or making an expenditure.

(b) For the purpose of this subsection (23), the primary purpose is determined by the commissioner by rule and includes criteria such as the allocation of budget, staff, or members' activity or the statement of purpose or goal of the person or individuals that form the committee.

(24) "Independent committee" means a political committee organized for the primary purpose of receiving contributions and making expenditures that is not controlled either directly or indirectly by a candidate and that does not coordinate with a candidate in conjunction with the making of expenditures except pursuant to the limits set forth in 13-37-216(1).

(25) "Independent expenditure" means an expenditure for an election communication to support or oppose a candidate or ballot issue made at any time that is not coordinated with a candidate or ballot issue committee.

(26) "Individual" means a human being.

(27) "Legally registered elector" means an individual whose application for voter registration was accepted, processed, and verified as provided by law.

(28) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by mailing ballots to all active electors.

(29) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, including a political committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (8).

(30) "Place of deposit" means a location designated by the election administrator pursuant to 13-19-307 for a mail ballot election conducted under Title 13, chapter 19.

(31) (a) "Political committee" means a combination of two or more individuals or a person other than an individual who receives a contribution or makes an expenditure:

(i) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination;

(ii) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(iii) to prepare or disseminate an election communication, an electioneering communication, or an independent expenditure.

(b) Political committees include ballot issue committees, incidental committees, independent committees, and political party committees.

(c) A candidate and the candidate's treasurer do not constitute a political committee.

(d) A political committee is not formed when a combination of two or more individuals or a person other than an individual makes an election communication, an electioneering communication, or an independent expenditure of \$250 or less.

(32) "Political party committee" means a political committee formed by a political party organization and includes all county and city central committees.

(33) "Political party organization" means a political organization that:

(a) was represented on the official ballot in either of the two most recent statewide general elections; or

(b) has met the petition requirements provided in Title 13, chapter 10, part 5.

(34) "Political subdivision" means a county, consolidated municipal-county government, municipality, special purpose district, or any other unit of government, except school districts, having authority to hold an election.

(35) "Polling place election" means an election primarily conducted at polling places rather than by mail under the provisions of Title 13, chapter 19.

(36) "Primary" or "primary election" means an election held on a date specified in 13-1-107 to nominate candidates for offices filled at a general election.

(37) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not been verified as provided by law.

(38) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose identity or eligibility has not yet been verified as provided by law.

(39) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(40) "Random-sample audit" means an audit involving a manual count of ballots from designated races and ballot issues in precincts selected through a random process as provided in 13-17-503.

(41) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

(42) "Regular school election" means the school trustee election provided for in 20-20-105(1).

(43) "School election" has the meaning provided in 20-1-101.

(44) "School election filing officer" means the filing officer with whom the declarations for nomination for school district office were filed or with whom the school ballot issue was filed.

(45) "School recount board" means the board authorized pursuant to 20-20-420 to perform recount duties in school elections.

(46) "Signature envelope" means an envelope that contains a secrecy envelope and ballot and that is designed to:

(a) allow election officials, upon examination of the outside of the envelope, to determine that the ballot is being submitted by someone who is in fact a qualified elector and who has not already voted; and

(b) allow it to be used in the United States mail.

(47) "Special election" means an election held on a day other than the day specified for a primary election, general election, or regular school election.

(48) "Special purpose district" means an area with special boundaries created as authorized by law for a specialized and limited purpose.

(49) "Statewide voter registration list" means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

(50) "Support or oppose", including any variations of the term, means:

(a) using express words, including but not limited to "vote", "oppose", "support", "elect", "defeat", or "reject", that call for the nomination, election, or defeat of one or more clearly identified candidates, the election or defeat of one or more political parties, or the passage or defeat of one or more ballot issues submitted to voters in an election; or

(b) otherwise referring to or depicting one or more clearly identified candidates, political parties, or ballot issues in a manner that is susceptible of no reasonable interpretation other than as a call for the nomination, election, or defeat of the candidate in an election, the election or defeat of the political party, or the passage or defeat of the ballot issue or other question submitted to the voters in an election.

(51) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in 13-15-206.

(52) "Voted ballot" means a ballot that is:

(a) deposited in the ballot box at a polling place;

(b) received at the election administrator's office; or

(c) returned to a place of deposit.

(53) "Voting system" or "system" means any machine, device, technology, or equipment used to automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

Section 10. Section 13-37-121, MCA, is amended to read:

"13-37-121. Inspection of statements and reports -- issuance of orders of noncompliance. (1) Each statement and report filed with the commissioner during an election or within 60 days after the election must be inspected within 20 days after the statement or report is filed. *A statement or report concerning [sections 2 through 8] must be inspected within 20 days after filing.* Intermediate Saturdays, Sundays, and holidays must be excluded in the computation of time under this section. If a person has not satisfied

the provisions of this chapter, the commissioner shall immediately notify the person of the noncompliance. Notification by the commissioner may be accomplished by written or electronic communication or by telephone. If the person fails to comply after the notification, the commissioner shall issue an order of noncompliance as provided in this section.

(2) An order of noncompliance may be issued when:

(a) upon examination of the official ballot, it appears that the person has failed to file a statement or report as required by this chapter or that a statement or report filed by a person does not conform to law; or

(b) it is determined that a statement or report filed with the commissioner does not conform to the requirements of this chapter or that a person has failed to file a statement or report required by law.

(3) If an order of noncompliance is issued during a campaign period or within 60 days after an election, a candidate or political committee shall submit the necessary information within 5 days after receiving the order of noncompliance. Upon a failure to submit the required information within the time specified, the appropriate county attorney or the commissioner may initiate a civil or criminal action pursuant to the procedures outlined in 13-37-124 and 13-37-125.

(4) If an order of noncompliance is issued during any period other than that described in subsection (3), a candidate, or political committee, or reporting entity as defined in [section 2] shall submit the necessary information within 10 days after receiving the order of noncompliance. Upon a failure to submit the required information within the time specified, the appropriate county attorney or the commissioner shall initiate a civil or criminal action pursuant to the procedures outlined in 13-37-124 and 13-37-125.

(5) After a complaint is filed with the commissioner pursuant to 13-37-111, the procedure described in this section regarding the provision of notice and issuance of orders of noncompliance is not a prerequisite to initiation of any other administrative or judicial action authorized under chapter 35 of this title or this chapter."

Section 11. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 13, chapter 10, part 6, and the provisions of Title 13, chapter 10, part 6, apply to [section 1].

(2) [Sections 2 through 8] are intended to be codified as an integral part of Title 13, chapter 37, and the provisions of Title 13, chapter 37, apply to [sections 2 through 8].

Section 12. Applicability. [This act] applies to expenditures made or contributions received on or after [the effective date of this act].

Approved May 7, 2019

CHAPTER NO. 338

[SB 365]

AN ACT ESTABLISHING THE FLATHEAD COUNTY VETERANS MEMORIAL; DIRECTING THE DEPARTMENT OF TRANSPORTATION TO INSTALL SIGNS; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Flathead County veterans memorial. (1) The bridge spanning the south fork of the Flathead River near Hungry Horse, Montana, is dedicated to Flathead County veterans who have been killed in action.

(2) The department shall design and install appropriate signs on each end of the bridge marking the Flathead County veterans memorial.

(3) The department shall design and install a memorial plaque at a location near the bridge with the names of individual Flathead County veterans who have been killed in action.

(4) The legislature intends that the names of future Flathead County veterans who are killed in action be added to the memorial plaque.

Section 2. Appropriation. There is appropriated \$1 for the biennium beginning July 1, 2019, from the state general fund to the department of transportation for the purpose of [section 1].

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 60, chapter 1, part 2, and the provisions of Title 60, chapter 1, part 2, apply to [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2019

CHAPTER NO. 339

[SB 300]

AN ACT GENERALLY REVISING REAL PROPERTY LAWS TO PROTECT REAL PROPERTY RIGHTS; PREVENTING HOMEOWNERS' ASSOCIATIONS FROM IMPOSING MORE ONEROUS RESTRICTIONS ON A PROPERTY OWNER THAN THOSE RESTRICTIONS THAT EXISTED WHEN THE PROPERTY OWNER ACQUIRED THE REAL PROPERTY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Homeowners' association restrictions – real property rights. (1) (a) A homeowners' association may not enter into, amend, or enforce a covenant, condition, or restriction in such a way that imposes more onerous restrictions on the types of use of a member's real property than those restrictions that existed when the member acquired the member's interest in the real property, unless the member who owns the affected real property expressly agrees in writing at the time of the adoption or amendment of the covenant, condition, or restriction.

(b) When a member claims the benefit of this subsection (1), the member shall request that the homeowners' association record, or allow recording of, the exception applicable to the member. Upon request by the member, the homeowners' association, the member, or a designee shall record the member's exception with the office of the county clerk and recorder of the county where the real property is situated. The member shall provide the homeowners' association with the date the real property was conveyed to the member and shall pay the recording fees for the document setting forth the exception.

(2) A successor-in-interest to a member's real property may not claim the benefit of subsection (1) to the extent that the homeowners' association entered into, amended, or enforced a covenant, condition, or restriction before the successor-in-interest purchased the real property, even if the covenant, condition, or restriction was not enforceable against the previous owner pursuant to subsection (1), unless the successor-in-interest is owned by or shares ownership with the previous member or unless the successor-in-interest is a lender that acquired the real property through foreclosure.

(3) This section does not apply to a covenant, condition, or restriction:

(a) that is not subject to enforcement by a homeowners' association; or

(b) that is required in order to comply with applicable federal, state, and local laws, ordinances, and regulations.

(4) Nothing in this section may be construed to prevent the enforcement of a covenant, condition, or restriction limiting the types of use of a member's real property as long as the covenant, condition, or restriction applied to the real property at the time the member acquired the member's interest in the real property.

(5) Nothing in this section invalidates existing covenants of a homeowners' association or creates a private right of action for actions or omissions occurring before [the effective date of this act]. However, after [the effective date of this act], unless the member has consented as provided by subsection (1), a homeowners' association may not enforce a covenant, condition, or restriction in such a way that limits the types of use of a member's real property that were allowed when the member acquired the affected real property.

(6) As used in this section, the following definitions apply:

(a) "Homeowners' association" means:

(i) an association of all the owners of real property within a geographic area defined by physical boundaries which:

(A) is formally governed by a declaration of covenants, bylaws, or both;

(B) may be authorized to impose assessments that, if unpaid, may become a lien on a member's real property; and

(C) may enact or enforce rules concerning the operation of the community or subdivision; or

(ii) an association of unit owners as defined by 70-23-102 subject to the Unit Ownership Act.

(b) "Member" means a person that belongs to a homeowners' association and whose real property is subject to the jurisdiction of the homeowners' association.

(c) "Person" means one or more individuals or a legal or commercial entity.

(d) "Real property" has the meaning provided in 70-1-106, except that it is limited to real property governed by a homeowners' association.

(e) "Types of use" means the following lawful types of use of the real property:

(i) use for residential, agricultural, or commercial purposes, unless the use was impermissible according to the written or recorded restrictions;

(ii) the ability to rent the real property, including the land and structures on the real property, for any amount of time; and

(iii) the ability to otherwise develop the real property in accordance with applicable federal, state, and local laws, ordinances, and regulations, unless the ability was impermissible according to the written or recorded restrictions.

Section 2. Restriction on covenants by association of unit owners.

An association of unit owners shall abide by the provisions of [section 1].

Section 3. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 70, and the provisions of Title 70 apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 70, chapter 23, and the provisions of Title 70, chapter 23, apply to [section 2].

Section 4. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 5. Effective date. [This act] is effective on passage and approval.

Approved May 9, 2019

CHAPTER NO. 340

[HB 8]

AN ACT APPROVING RENEWABLE RESOURCE PROJECTS AND AUTHORIZING LOANS; REAUTHORIZING RENEWABLE RESOURCE PROJECTS PREVIOUSLY AUTHORIZED BY THE 64TH LEGISLATURE; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR LOANS UNDER THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; AUTHORIZING THE ISSUANCE OF COAL SEVERANCE TAX BONDS; CREATING A STATE DEBT AND APPROPRIATING COAL SEVERANCE TAXES FOR DEBT SERVICE; PLACING CERTAIN CONDITIONS ON LOANS; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Authorization to provide loans. (1) The legislature finds that the renewable resource projects listed in this section meet the provisions of 17-5-702. The department of natural resources and conservation is authorized to make loans to the political subdivisions of state government and local governments listed in subsections (2) through (4) in amounts not to exceed the loan amounts listed for each project from the proceeds of the bonds authorized in [section 3].

(2) The interest rate for the project in this group is 3.0% or the rate at which the state bonds are sold, whichever is lower, for up to 20 years:

Loan	Amount
Department of Natural Resources and Conservation - Conservation and Resource Development Division	
Refinance Existing Debt or Rehabilitation of Infrastructure Facilities	\$8,000,000

(3) The interest rate for the projects in this group is 3.0% or the rate at which the state bonds are sold, whichever is lower, for up to 20 years:

Loan	Amount
Central Montana Regional Water Authority	
Local Match for Central Montana Regional Water System	\$3,000,000
Dry-Redwater Regional Water Authority	
Local Match for Dry Redwater Regional Water Projects	\$3,000,000

(4) The interest rate for the project in this group is 3.0% or the rate at which the state bonds are sold, whichever is lower, for up to 30 years:

Loan	Amount
Canyon Creek Irrigation District	
Canyon Creek Drainage Repair	\$250,000

Section 2. Projects not completing requirements -- projects reauthorized. (1) The legislature finds that the following renewable resource projects that were approved by the 64th legislature in Chapter 447, Laws of 2015, may not complete the requirements necessary to obtain the loan funds prior to June 30, 2019. The projects described in this section are reauthorized. The department of natural resources and conservation is authorized to make loans to the political subdivisions of state government and local governments listed in subsections (2) through (4) in amounts not to exceed the loan amounts listed for each project from the proceeds of the bonds authorized in [section 3].

(2) The interest rate for the projects in this group is 3.0% or the rate at which the state bonds are sold, whichever is lower, for up to 30 years:

Loan	Amount
Dry Prairie Regional Water Authority	
Local Match for Dry Prairie Projects	\$6,000,000
North Central Regional Water Authority	
Local Match for North Central Projects	\$10,000,000
(3) The interest rate for the project in this group is 3.0% or the rate at which the state bonds are sold, whichever is lower, for up to 30 years:	
Loan	Amount
Huntley Irrigation District Reauthorization	
Pump Station and River Diversion	\$3,500,000
Lockwood Irrigation District	
Box Elder Siphon, Pump Station, and Pump 3	\$750,000
(4) (a) The interest rate for the project in this group is 3.0% or the rate at which the state bonds are sold, whichever is lower, for up to 30 years:	
Loan	Amount
St. Mary's Diversion Project	
Local Share	\$40,000,000

(b) The loan in this subsection (4) is contingent on the following:

(i) the federal government entering into an agreement with the state that designates the federal and state share of the total project cost;

(ii) the forming of a water users' association of Montana users of the waters flowing from the Milk River that includes cities, towns, districts, water user associations, and other unassociated individuals and entities; and

(iii) the water users' association demonstrating to the satisfaction of the department of natural resources and conservation its financial capacity, through water user fees or other available sources of funding, to pay the annual costs of the loan repayment over the term of the loan.

Section 3. Coal severance tax bonds authorized. (1) The legislature finds that Title 17, chapter 5, part 7, provides for the issuance of coal severance tax bonds for financing specific approved renewable resource projects as part of the state renewable resource grant and loan program. Available funds from previous sales of coal severance tax bonds, plus any additional principal amount on bonds as may be necessary, pursuant to the conditions in 85-1-605, to fund emergency loans, as authorized and approved in accordance with 85-1-605(4), may also be used for the projects approved in [sections 1 through 7]. The board of examiners is authorized to issue coal severance tax bonds in an amount not to exceed \$81,950,000 in the biennium beginning July 1, 2019, of which up to \$7,450,000 is to be used to establish a reserve for the bonds. Proceeds of the bonds are appropriated to the department of natural resources and conservation for financing the projects identified in [sections 1 and 2] and may be used as authorized in 85-1-605(4). Loans made under 85-1-605(4) must bear interest at the rate borne by the state bonds unless the legislature in a subsequent session provides for a lower interest rate, in which case the rate must be reduced to the rate specified by the legislature.

(2) In connection with the issuance of coal severance tax bonds, the board of examiners may pay the principal and interest on the bonds when due from the debt service account and in all other respects manage and use the funds within each special bond account for the benefit of the bonds. The board of examiners shall exercise its discretion to enhance the marketability of the bonds and to secure the most advantageous financial arrangements for the state.

(3) Earnings on bond proceeds prior to the completion of any loan must be allocated to the debt service account to pay the debt service on the bonds during this period. Earnings in excess of debt service, if any, must be allocated

to the natural resources projects state special revenue account established in 15-38-302.

(4) Loan repayments from loans financed with coal severance tax bonds are pledged, dedicated, and appropriated to the debt service account in the state treasury for the benefit of bonds approved for loans under this section.

Section 4. Condition of loans. (1) Disbursement of funds under [sections 1 and 2] for loans is subject to the following conditions that must be met by project sponsors:

(a) approval of a scope of work and budget for the project by the department of natural resources and conservation. Reductions in a scope of work or budget may not affect priority activities or improvements.

(b) documented commitment of other funds required for project completion;

(c) satisfactory completion of conditions described in the recommendations section of the project narrative in the renewable resource grant and loan program project evaluations and recommendations report;

(d) execution of a loan agreement with the department of natural resources and conservation; and

(e) accomplishment of other specific requirements considered necessary by the department of natural resources and conservation to accomplish the purpose of the loan as evidenced from the application to the department or from the proposal to the legislature.

(2) Each sponsor authorized for a loan from coal severance tax bond proceeds may be required to pay to the department of natural resources and conservation a pro rata share of the bond issuance costs and the administrative costs incurred by the department to complete the loan transaction.

Section 5. Private and discount purchase of loans. Loans to political subdivisions and local government entities pursuant to [sections 1 and 2] and bonds, warrants, and notes issued in evidence of those loans may be made, purchased by, and sold to the department of natural resources and conservation at a discount and at a private negotiated sale, notwithstanding the provisions of any other law applicable to political subdivisions or local government entities.

Section 6. Appropriations established. For any entity of state government that receives a loan under [section 1 or 2], an appropriation is established for the amount of the loan upon award of the loan by the department of natural resources and conservation for the biennium beginning July 1, 2019.

Section 7. Creation of state debt – appropriation of coal severance tax – bonding provisions. (1) Because [section 3] authorizes the creation of a state debt, a vote of two-thirds of the members of each house of the legislature is required for enactment.

(2) The legislature, through the enactment of [sections 1 through 7] by a vote of three-fourths of the members of each house of the legislature, as required by Article IX, section 5, of the Montana constitution, pledges, dedicates, and appropriates from the coal severance tax bond fund all money necessary for the payment of principal and interest not otherwise provided for on the coal severance tax bonds authorized by [section 3] to be issued pursuant to Title 17, chapter 5, part 7, and pursuant to the provisions of [sections 1 through 7] and the general resolution for this bond program that has been adopted by the board of examiners under the authority provided in Title 17, chapter 5, part 7.

Section 8. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 9. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is

invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 10. Effective date. [This act] is effective July 1, 2019.

Approved May 7, 2019

CHAPTER NO. 341

[HB 4]

AN ACT APPROPRIATING MONEY THAT WOULD USUALLY BE APPROPRIATED BY BUDGET AMENDMENT TO VARIOUS STATE AGENCIES FOR FISCAL YEAR ENDING JUNE 30, 2019; PROVIDING THAT CERTAIN APPROPRIATIONS CONTINUE INTO STATE AND FEDERAL FISCAL YEARS 2020 AND 2021; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Time limits. The appropriations contained in [section 2] are intended to provide necessary expenditures for the years for which the appropriations are made. The unspent balance of an appropriation reverts to the fund from which it was appropriated upon conclusion of the final fiscal year for which its expenditures are authorized by [sections 1 and 2].

Section 2. Appropriations. The following money is appropriated, subject to the terms and conditions of [sections 1 and 2]:

Agency and Program

Judiciary

Supreme Court Operations

State Court Improvement Data Program	FY 2019	\$99,988	Federal
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State Court Improvement Training Program	FY 2019	\$99,988	Federal
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All remaining fiscal year 2019 federal budget amendment authority for the state court improvement data program and for the state court improvement training program is authorized to continue into federal fiscal year 2020.

District Court Operations

Sobriety, Treatment, Education, Excellence, and Rehabilitation

	FY 2019	\$284,239	Federal
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Flathead Family Treatment Court	FY 2019	\$600,000	Federal
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All remaining fiscal year 2019 federal budget amendment authority for the 20th judicial district adult drug court implementation and for the Missoula veterans court expansion and enhancement and for the Montana supreme court adult drug court implementation and for the Flathead family treatment court is authorized to continue into federal fiscal year 2021.

Secretary of State

Business and Government Services

All remaining fiscal year 2019 federal budget amendment authority for the help America vote grant and for the election security grant is authorized to continue into federal fiscal year 2021.

Office of Public Instruction

State Level Activities

All remaining fiscal year 2019 federal budget amendment authority for the preschool development grant is authorized to continue into state fiscal year 2020.

All remaining fiscal year 2019 federal budget amendment authority for the Montana striving readers comprehensive literacy project is authorized to continue into federal fiscal year 2020.

All remaining fiscal year 2019 federal budget amendment authority for the technology innovation grant project and for the school violence prevention grant program is authorized to continue into federal fiscal year 2021.

Local Education Activities

All remaining fiscal year 2019 federal budget amendment authority for the preschool development grant is authorized to continue into state fiscal year 2020.

All remaining fiscal year 2019 federal budget amendment authority for the Montana striving readers comprehensive literacy project is authorized to continue into federal fiscal year 2020.

Department of Justice

Legal Services Division

All remaining fiscal year 2019 federal budget amendment authority for the Intercede project is authorized to continue into federal fiscal year 2020.

Montana Highway Patrol

All remaining fiscal year 2019 federal budget amendment authority for the high intensity drug trafficking areas program is authorized to continue into state fiscal year 2020.

Division of Criminal Investigation

Yellowstone County Sex Offender Compliance Operation

	FY 2019	\$3,823	Federal
Northwest Drug Task Force	FY 2019	\$21,000	Federal
Missouri River Drug Task Force	FY 2019	\$18,344	Federal

All remaining fiscal year 2019 federal budget amendment authority for the Northwest drug task force and for the Missouri River drug task force is authorized to continue into state fiscal year 2020.

All remaining fiscal year 2019 federal budget amendment authority for the anti-methamphetamine program is authorized to continue into federal fiscal year 2020.

Forensic Science Division

All remaining fiscal year 2019 federal budget amendment authority for the sexual assault forensic evidence program and for the 2017 DNA program initiative is authorized to continue into state fiscal year 2020.

All remaining fiscal year 2019 federal budget amendment authority for the 2018 DNA program initiative and for the medical examiner's office accreditation is authorized to continue into state fiscal year 2021.

Montana Arts Council

Promotion of the Arts

All remaining fiscal year 2019 federal budget amendment authority for the national endowment of the arts strategic plan is authorized to continue into state fiscal year 2020.

Montana State Library

Statewide Library Resources

NASA at My Library	FY 2019	\$3,200	Federal
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All remaining fiscal year 2019 federal budget amendment authority for NASA at my library is authorized to continue into state fiscal year 2020.

All remaining fiscal year 2019 federal budget amendment authority for the geospatially accurate natural resource information and for wetlands mapping is authorized to continue into federal fiscal year 2021.

Montana Historical Society

Research Center

Montana Board Programming Grant	FY 2019	\$28,879	Federal
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Parks Division

All remaining fiscal year 2019 federal budget amendment authority for the Smith River corridor management is authorized to continue into federal fiscal year 2021.

Capital Outlay

Blackfoot Community Conservation Area Wildlife Habitat Improvement Project	FY 2019	\$30,038	Federal
North Hills Rattlesnake Wildlife Habitat Improvement Project	FY 2019	\$37,500	Federal
Upper Ruby Wildlife Habitat Improvement Project	FY 2019	\$564,000	Federal

All remaining fiscal year 2019 federal budget amendment authority for the Rattlesnake Basin conservation and for the Montana wildlife lands program is authorized to continue into state fiscal year 2020.

All remaining fiscal year 2019 federal budget amendment authority for a trust to acquire land easement parcels and for the Whitefish Lake watershed legacy project is authorized to continue into federal fiscal year 2020.

All remaining fiscal year 2019 federal budget amendment authority for Narrows Creek dam design and reconstruction is authorized to continue into state fiscal year 2021.

All remaining fiscal year 2019 federal budget amendment authority for watershed restoration in the Selway Meadows area and for the upper Ruby wildlife habitat improvement project and for the Blackfoot community conservation area wildlife habitat improvement project and for the North Hills rattlesnake wildlife habitat improvement project is authorized to continue into federal fiscal year 2021.

Administration

Wildlife Surveys on the Flathead Indian Reservation

	FY 2019	\$536,186	Federal
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All remaining fiscal year 2019 federal budget amendment authority for wildlife surveys on the Flathead Indian Reservation is authorized to continue into federal fiscal year 2021.

Department of Environmental Quality

Central Management Program

2018 Exchange Network Grant	FY 2019	\$200,000	Federal
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All remaining fiscal year 2019 federal budget amendment authority for the 2018 exchange network grant is authorized to continue into federal fiscal year 2021.

Water Quality Division

All remaining fiscal year 2019 federal budget amendment authority for the section 106 monitoring initiative supplemental grant is authorized to continue into state fiscal year 2020.

All remaining fiscal year 2019 federal budget amendment authority for the 2016 non-point source projects grant is authorized to continue into state fiscal year 2021.

All remaining fiscal year 2019 federal budget amendment authority for the water quality management planning program and for the 2017 non-point source projects grant and for the 2018 non-point source projects grant is authorized to continue into federal fiscal year 2021.

Waste Management and Remediation Division

Abandoned Mine Land Reclamation Program

	FY 2019	\$7,552,769	Federal
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All remaining fiscal year 2019 federal budget amendment authority for the abandoned mine lands reclamation program is authorized to continue into federal fiscal year 2021.

Air, Energy, and Mining Division

All remaining fiscal year 2019 federal budget amendment authority for the scale solar strategy project is authorized to continue into state fiscal year 2020.

All remaining fiscal year 2019 federal budget amendment authority for pollution prevention and resource efficiency is authorized to continue into state fiscal year 2021.

All remaining fiscal year 2019 federal budget amendment authority for the Zortman/Landusky water treatment and reclamation and for air monitoring and for the coal application program development and for the coal application program manager is authorized to continue into federal fiscal year 2021.

Department of Transportation

Highway and Engineering

Bridge and Highway Reconstruction	FY 2019	\$9,050,593	Federal
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All remaining fiscal year 2019 federal budget amendment authority for the 2017 federal-aid highway program and for the highway infrastructure program and for the 2018 federal-aid highway program and for the technology and innovation development program and for bridge and highway reconstruction is authorized to continue into federal fiscal year 2021.

Motor Carrier Services Division

All remaining fiscal year 2019 federal budget amendment authority for implementing the 2017 high priority grant is authorized to continue into federal fiscal year 2021.

Aeronautics Division

All remaining fiscal year 2019 federal budget amendment authority for the Yellowstone airport terminal area master plan study is authorized to continue into federal fiscal year 2020.

Department of Livestock

Animal Health Division

Meat and Poultry Inspection Program	FY 2019	\$142,763	Federal
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Animal Disease Traceability Pre-Award	FY 2019	\$34,804	Federal
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Department of Natural Resources and Conservation

Conservation and Resource Development Division

All remaining fiscal year 2019 federal budget amendment authority for the drinking water state revolving fund capitalization grant and for the water pollution control capitalization grant is authorized to continue into state fiscal year 2020.

All remaining fiscal year 2019 federal budget amendment authority for the 2014 drinking water state revolving fund capitalization grant and for the prevention of aquatic invasive species in the Columbia River Basin is authorized to continue into state fiscal year 2021.

All remaining fiscal year 2019 federal budget amendment authority for the technical assistance and conservation cost-share program and for the density distribution calculation tool support and for the safe drinking water grant and for the clean water grant is authorized to continue into federal fiscal year 2021.

Water Resources Division

FEMA Reimbursement	FY 2019	\$1,363	Federal
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Support for Water Transfers to Instream Flows

	FY 2019	\$42,124	Federal
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All remaining fiscal year 2019 federal budget amendment authority for building drought resilience in the Missouri headwaters basin is authorized to continue into state fiscal year 2020.

All remaining fiscal year 2019 federal budget amendment authority for all the 2015 cooperating technical partners awards is authorized to continue into federal fiscal year 2020.

All remaining fiscal year 2019 federal budget amendment authority for all the 2016 cooperating technical partners awards and for all the 2017 cooperating technical partners awards and for all the 2018 cooperating technical partners awards is authorized to continue into federal fiscal year 2021.

Forest and Trust Lands

Aerial Fire Depot Support

FY 2019 \$25,200 Federal

2018 prescribed burning in the Lolo National Forest

FY 2019 \$21,000 Federal

All remaining fiscal year 2019 federal budget amendment authority for the 2016 wood products and biomass program and for the 2015 prescribed burning in the Beaverhead-Deerlodge national forest and for the wood utilization assistance and wood innovation grant and for the 2016 consolidated payments grant and for the 2016 hazardous fuels reduction and for the aerial fire depot support and for prescribed burning on federal land is authorized to continue into state fiscal year 2020.

All remaining fiscal year 2019 federal budget amendment authority for the 25th anniversary commemorative assistance grant and for the distribution and condition of limber pine along the Rocky Mountain front is authorized to continue into federal fiscal year 2020.

All remaining fiscal year 2019 federal budget amendment authority for the Missoula field office prescribed burning activities and for the Glasgow field office prescribed burning activities and for the Lewistown field office prescribed burning activities and for prescribed burning in the Custer Gallatin national forest and for the 2016 prescribed burning in the Beaverhead-Deerlodge national forest and for the 2017 consolidated payments grant and for the landscape scale restoration consolidated payments grant and for the 2017 hazardous fuels reduction and for prescribed burning in the Helena-Lewis and Clark national forest and for the conservation reserve program sign-up is authorized to continue into state fiscal year 2021.

All remaining fiscal year 2019 federal budget amendment authority for the emergency fire restoration program and for the Dillon prescribed fire assistance and for equipment inspectors and for the Plains dispatch prescribed fire assistance and for fire safe Flathead and for the 2018 consolidated payments grant and for the 2018 hazardous fuels reduction and for the Fort Peck pines recreation area and for the 2018 wood products and biomass program and for the Red Mountain Chessman Flume and for the 2018 prescribed burning in the Lolo national forest and for the Helena interagency dispatch center shared services and for the 2019 consolidated payments grant and for the 2019 hazardous fuels reduction and for good neighbor authority capacity building and for the forest health western bark beetle grant and for the wildland urban interface community fire assistance and for the landscape scale restoration consolidated payments grant is authorized to continue into federal fiscal year 2021.

Department of Revenue

Business and Income Taxes Division

All remaining fiscal year 2019 federal budget amendment authority for the federal audit reimbursement is authorized to continue into federal fiscal year 2020.

Department of Agriculture

Central Management Division

All remaining fiscal year 2019 federal budget amendment authority for the greater sage grouse habitat is authorized to continue into federal fiscal year 2021.

Agricultural Sciences Division

All remaining fiscal year 2019 federal budget amendment authority for the greater sage grouse habitat is authorized to continue into federal fiscal year 2021.

Agriculture Development Division

Agricultural Mediation Grant FY 2019 \$13,186 Federal

All remaining fiscal year 2019 federal budget amendment authority for the 2018 quality samples program and for the farm to school program is authorized to continue into state fiscal year 2020.

All remaining fiscal year 2019 federal budget amendment authority for the 2017 specialty crop block grant is authorized to continue into federal fiscal year 2020.

All remaining fiscal year 2019 federal budget amendment authority for the 2018 specialty crop block grant is authorized to continue into federal fiscal year 2021.

Department of Corrections

Administrative Support Services

All remaining fiscal year 2019 federal budget amendment authority for the sexual assault kit initiative and for the justice reinvestment subawards is authorized to continue into federal fiscal year 2020.

All remaining fiscal year 2019 federal budget amendment authority for linking systems of care for children and youth is authorized to continue into state fiscal year 2021.

All remaining fiscal year 2019 federal budget amendment authority for the project safe neighborhoods initiative and for building state technology capacity and for enhancing sex offender registration and for the comprehensive opioid abuse site-based program is authorized to continue into federal fiscal year 2021.

Secure Custody Facilities

Criminal Alien Assistance Program FY 2019 \$22,194 Federal

Department of Commerce

Montana Office of Tourism and Business Development

All remaining fiscal year 2019 federal budget amendment authority for the state trade export promotion program is authorized to continue into federal fiscal year 2020.

Community Development Division

All remaining fiscal year 2019 federal budget amendment authority for the housing trust fund grants is authorized to continue into federal fiscal year 2021.

Housing Division

All remaining fiscal year 2019 federal budget amendment authority for the 811 project rental assistance demonstration program is authorized to continue into state fiscal year 2020.

Department of Labor and Industry

Workforce Services Division

All remaining fiscal year 2019 federal budget amendment authority for the American apprenticeship initiative is authorized to continue into state fiscal year 2021.

Office of Community Services

Training and technical assistance grant FY 2020 \$165,316 Federal

All authority for the training and technical assistance grant is authorized to continue into federal fiscal year 2021.

Department of Military Affairs

Army National Guard Program

All remaining fiscal year 2019 federal budget amendment authority for the 2015 Montana Army National Guard facilities programs is authorized to continue into federal fiscal year 2020.

Challenge Program

Youth Challenge Program	FY 2019	\$295,013	Federal
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STARBASE

STARBASE Program	FY 2019	\$157,794	Federal
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Disaster and Emergency Services Division

Montana Pre-Disaster Mitigation Plan	FY 2019	\$996,558	Federal
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Department of Public Health and Human Services

Human and Community Services

Early Childhood System	FY 2019	\$4,208,250	Federal
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All remaining fiscal year 2019 federal budget amendment authority for the early childhood system is authorized to continue into state fiscal year 2020.

All remaining fiscal year 2019 federal budget amendment authority for the meal services training grant is authorized to continue into federal fiscal year 2020.

All remaining fiscal year 2019 federal budget amendment authority for the food stamp program high performance bonus is authorized to continue into federal fiscal year 2021.

Child and Family Services Division

Caseworker Visitations	FY 2019	\$46,537	Federal
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Adoption and Legal Guardianship Incentive Payments

	FY 2019	\$376,106	Federal
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Promoting Safe and Stable Families Program

	FY 2019	\$222,660	Federal
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All remaining fiscal year 2019 federal budget amendment authority for the adoption and legal guardianship incentive payments and for caseworker visitations is authorized to continue into federal fiscal year 2020.

Public Health and Safety Division

State Sexual Risk Avoidance Education	FY 2019	\$149,969	Federal
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Environmental Health Education and Assessment Program

	FY 2019	\$69,465	Federal
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All remaining fiscal year 2019 federal budget amendment authority for the maternal, infant, and early childhood home visiting grant program and for state sexual risk avoidance education is authorized to continue into federal fiscal year 2020.

All remaining fiscal year 2019 federal budget amendment authority for public health emergency preparedness for Ebola preparedness and response activities is authorized to continue into state fiscal year 2020.

Senior and Long-Term Care Division

All remaining fiscal year 2019 federal budget amendment authority for the Alzheimer's disease support services program and for the community choice partnership is authorized to continue into federal fiscal year 2020.

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2019

CHAPTER NO. 342

[HB 35]

AN ACT GENERALLY REVISING ALCOHOL LICENSING LAWS; REVISING LAWS RELATING TO COMPETITIVE BIDDING PROCESSES; REVISING PROCEDURES FOR COMPETITIVE BIDDING PROCESSES FOR ALL-BEVERAGES, RETAIL BEER AND WINE, AND RESTAURANT BEER AND WINE LICENSES; REMOVING THE TERMINATION DATE APPLICABLE TO COMPETITIVE BIDDING PROCESSES; REVISING LAWS RELATING TO QUOTA AREA DETERMINATIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 16-4-105, 16-4-201, 16-4-204, 16-4-207, 16-4-305, 16-4-306, 16-4-402, 16-4-420, AND 23-5-119, MCA; REPEALING SECTIONS 2, 5, 8, 10, 12, 14, AND 17, CHAPTER 5, SPECIAL LAWS OF NOVEMBER 2017; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Competitive bidding process – all-beverages, retail beer and wine, and restaurant beer and wine licenses. (1) (a) When the department determines that a quota area is eligible for a license under 16-4-105, 16-4-201, 16-4-204, or 16-4-420, the department shall use a competitive bidding process to determine the party afforded the opportunity to apply for the license. The department shall use a competitive bidding process when:

(i) a new license becomes available in a quota area where a license of the same type is not currently available in the quota area;

(ii) the opportunity to transfer a license into a quota area becomes available where a license of the same type is not currently available in the quota area;

(iii) the lapse, revocation, or issuance of a license within the quota area where the license is located has created the last remaining license for that license type in the quota area; or

(iv) the department's denial of an application for licensure or an applicant's withdrawal of an application for licensure has created the last remaining license for that license type in a quota area.

(b) The department shall:

(i) determine the minimum bid based on 75% of the market value of applicable licenses in the quota area;

(ii) publish notice that a quota area is eligible for a new license;

(iii) notify the bidder with the highest bid; and

(iv) keep confidential the identity of bidders, number of bids, and bid amounts until the highest bidder has been approved.

(2) (a) To enter the competitive bidding process, a bidder shall submit:

(i) an electronic bid form provided by the department; and

(ii) an irrevocable letter of credit from a financial institution establishing the department as the beneficiary of at least the bid amount. The financial institution may issue the irrevocable letter of credit in the name of the bidder, if the bidder is a business entity, or in the name of an individual who is an owner of the business entity.

(b) The department shall contact any bidder whose timely submitted bid form has a deficiency and shall provide that bidder with an opportunity to resubmit the bid form within 5 business days to correct any deficiency.

(3) In the case of a tie for the highest bid, the tied bidders may submit new bids. The minimum bid must be the tied bid amount. To submit a new bid, a tied bidder shall submit:

(a) an electronic bid form provided by the department; and

(b) an irrevocable letter of credit from a financial institution establishing the department as the beneficiary of at least the new bid amount. The financial institution may issue the irrevocable letter of credit in the name of the bidder, if the bidder is a business entity, or in the name of an individual who is an owner of the business entity.

(4) The highest bidder shall:

(a) submit an application provided by the department and applicable fees for the license within 60 days of the department's notification of being the highest bidder;

(b) pay the bid amount prior to approval of the license;

(c) meet all other requirements to own the license; and

(d) commence business within 1 year of the department's notification, unless the department grants an extension because commencement was delayed by circumstances beyond the applicant's control. Any extension request must be made in writing to the department prior to the deadline for commencing business.

(5) If the highest bidder is not approved to own the license, the department shall offer the license to the next highest bidder. That bidder shall comply with the requirements of subsection (4). If no qualified bidder is approved to own the license, the department shall reopen the competitive bidding process for the license.

(6) (a) If no bids are received during the competitive bidding process, the department shall reopen the bid at a lower bid amount than initially determined in subsection (1).

(b) If, after holding a competitive bidding process, the department determines that there is no significant market value for a particular license, the department may withdraw that license from the competitive bidding process and process applications for the license in the order received.

(c) If a quota area is already eligible for a license as of November 24, 2017, the department shall process applications for the license in the order received.

(7) (a) The successful applicant is subject to forfeiture of the license, the license fees, and the original bid amount if the successful applicant:

(i) transfers the awarded license to another person or business entity within 1 year after receiving the license unless that transfer is due to a death of an owner;

(ii) proposes a location for the license within the first year of operation that had the same license type within the previous 12 months; or

(iii) does not use the license within 1 year of receiving the license or stops using the license within 5 years. The department may extend the time for use if the successful applicant provides evidence that the delay in use is for reasons outside the applicant's control. Evidence of the delay must be made in writing to the department prior to the deadline for commencing business.

(b) If a license is forfeited, the department shall determine whether there is a lien against the license. If there is a lien, the department shall notify the lienholder or secured party of the forfeiture and the lienholder or secured party may foreclose on the license and request transfer of the license pursuant to 16-4-801. If there is not a lien on the license or if the lienholder or secured party does not foreclose on the license pursuant to 16-4-801, the department shall conduct another competitive bidding process for the license.

(8) A license issued under this section is not eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6.

(9) Nothing in subsection (7) relating to forfeiture prohibits a lienholder or secured party from foreclosing on a license. A lien may be placed on a license issued under this section and may be foreclosed on. If a license is foreclosed on, the department shall keep the license fees and the original bid amount and the lienholder or secured party may resell the license, pending department approval of the applicant.

Section 2. Section 16-4-105, MCA, is amended to read:

“16-4-105. (Temporary) Limit on retail beer licenses – wine license amendments – limitation on use of license – exceptions – competitive bidding – rulemaking. (1) Except as provided in 16-4-109, 16-4-110, 16-4-115, 16-4-420, and chapter 4, part 3, of this title, a license to sell beer at retail or beer and wine at retail, in accordance with the provisions of this code and the rules of the department, may be issued to any person or business entity that is approved by the department, subject to the following exceptions:

(a) The number of retail beer licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within ~~a distance of 5 miles from~~ of the corporate limits of the cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows:

(i) in incorporated towns of 500 inhabitants or ~~less~~ *fewer* and within a ~~distance of 5 miles from~~ of the corporate limits of the towns, not more than one retail beer license;

(ii) in incorporated cities or incorporated towns of more than 500 inhabitants and not ~~over more than~~ 2,000 inhabitants and within a ~~distance of 5 miles from~~ of the corporate limits of the cities or towns, one retail beer license for every 500 inhabitants;

(iii) in incorporated cities of ~~over more than~~ 2,000 inhabitants and within a ~~distance of 5 miles from~~ of the corporate limits of the cities, four retail beer licenses for the first 2,000 inhabitants, two additional retail beer licenses for the next 2,000 inhabitants or major fraction of 2,000 inhabitants, and one additional retail beer license for ~~every~~ *each* additional 2,000 inhabitants.

(b) The number of inhabitants in each incorporated city or incorporated town, exclusive of the number of inhabitants residing within a ~~distance of 5 miles from~~ of the corporate limits of the city or town, governs the number of retail beer licenses that may be issued for use within the city or town and within a ~~distance of 5 miles from~~ of the corporate limits of the city or town. The distance of 5 miles from the corporate limits of ~~any an~~ incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town. *A license that is restricted by quota limitations in this section may not be located farther than:*

(i) *the county boundary within which the incorporated city or incorporated town is located; or*

(ii) *the line that separates the incorporated city's or incorporated town's boundary from another incorporated city or incorporated town as specified in this section.*

(c) (i) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town.

(ii) *If there are more than two overlapping quota areas, the quota area for each city or town terminates from the center of the overlap in a straight line to the intersecting exterior point of overlap. Licenses existing as of November 24,*

2017, will be designated as belonging to whichever quota area they are in as a result of the straight line equidistant between each city or town, except for the following:

(A) In the Helena and East Helena previously combined quota area, the straight line will be drawn connecting the two outermost edges of the Helena corporate boundaries and extend outward to the quota area boundaries. Any license existing as of November 24, 2017, with a physical address of Helena will become a Helena license or with a physical address of East Helena will become an East Helena license, regardless of where it falls in the new quota areas.

(B) In the Pinesdale and Hamilton previously combined quota area, the straight line will be drawn along Mill Creek road to the quota area boundaries.

(C) In the Polson and Ronan quota areas, the straight line will be drawn from U.S. highway 93 west on Pablo West road to the quota area boundary and east on Clairmont road extending out to the quota area boundary. Any license existing as of November 24, 2017, within the Polson quota area will become a Polson license, regardless of where it falls in the new quota areas. Any license existing as of November 24, 2017, within the Ronan quota area will become a Ronan license, regardless of where it falls in the new quota areas.

(d) Retail beer licenses of issue on March 7, 1947, and retail beer licenses issued under 16-4-110 that are in excess of the limitations in this section are renewable, but new licenses may not be issued in violation of the limitations.

(e) The limitations do not prevent the issuance of a nontransferable and nonassignable retail beer license to an enlisted persons', noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985, or to a post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in existence for a period of 5 years or more prior to January 1, 1949.

(f) The number of retail beer licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a ~~distance of 5 miles from~~ of the corporate limits or for use at premises situated within any unincorporated area must be determined by the department in its discretion, except that a retail beer license may not be issued for any premises so situated unless the department determines that the issuance of the license is required by public convenience and necessity pursuant to 16-4-203. Subsection ~~(12)~~ (7) does not apply to licenses issued under this subsection (1)(f). The owner of the license whose premises are situated outside of an incorporated city or incorporated town may offer gambling, regardless of when the license was issued, if the owner and premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(2) (a) For a period of 12 years after November 24, 2017, existing licenses or licenses that resulted from applications in process as of November 24, 2017, in either of two quota areas that were established as provided in subsection (1)(c) may be transferred between the two quota areas if they were part of a the combined quota area prior to November 24, 2017.

(b) If any new retail beer licenses are allowed by separating a combined quota area that existed as of November 24, 2017, as provided in subsection (1)(c), the department shall publish the availability of no more than one new beer license a year until the quota has been reached.

(c) If any new retail beer licenses are allowed by license transfers as provided in subsection (2)(a), the department may publish the availability of more than one new license a year until the quota has been reached.

(3) A license issued under subsection (1)(f) that becomes located within 5 miles of an incorporated city or town because of annexation after April 15,

2005, may not be transferred to another location within the city quota area ~~for any sooner than 5 years from the date of the annexation.~~

(4) When the department determines that a quota area is eligible for a new retail beer license under subsection (1) or (2)(b), the department shall use a competitive bidding process *as provided in [section 1]* to determine the party afforded the opportunity to apply for the new license. The department shall:

(a) ~~determine the minimum bid based on 75% of the market value of retail beer licenses in the quota area;~~

(b) ~~publish notice that a quota area is eligible for a new license;~~

(c) ~~notify the bidder with the highest bid; and~~

(d) ~~keep confidential the identity of bidders, number of bids, and bid amounts until the highest bidder has been approved.~~

(5) ~~To enter the competitive bidding process, a bidder shall submit:~~

(a) ~~an application form provided by the department; and~~

(b) ~~an irrevocable letter of credit from a financial institution establishing the department as the beneficiary of the bid amount.~~

(6) ~~In the case of a tie for the highest bid, the tied bidders may submit new bids. The minimum bid must be set at the tied bid amount. To submit a new bid, a tied bidder shall submit:~~

(a) ~~an application form provided by the department; and~~

(b) ~~an irrevocable letter of credit from a financial institution establishing the department as the beneficiary of the new bid amount.~~

(7) ~~The highest bidder shall:~~

(a) ~~submit an application provided by the department and applicable fees for the license within 60 days of the department's notification of being the highest bidder;~~

(b) ~~pay the bid amount prior to the license being approved;~~

(c) ~~meet all other requirements to own a retail beer license; and~~

(d) ~~commence business within 1 year of the department's notification unless the department grants an extension because commencement was delayed by circumstances beyond the applicant's control.~~

(8) ~~If the highest bidder is not approved to own the license, the department shall offer the license to the next highest bidder. That bidder shall comply with the requirements of subsection (7).~~

(9) ~~If no bids are received during the competitive bidding process or if a quota area is already eligible for another new license, the department shall process applications for the license in the order received.~~

(10) (a) The successful applicant is subject to forfeiture of the license and the original license fee if the successful applicant:

(i) ~~transfers the awarded license to another person or business entity after receiving the license unless that transfer is due to a death of an owner;~~

(ii) ~~does not use the license within 1 year of receiving the license or stops using the license within 5 years. The department may extend the time for use if the successful applicant provides evidence that the delay in use is for reasons outside the applicant's control; or~~

(iii) ~~proposes a location for the license that had the same license type within the previous 12 months.~~

(b) ~~If a license is forfeited, the department shall offer the license to the next eligible highest bidder in the auction.~~

(5) *Except as provided in subsection (2)(b), when more than one new beer license becomes available at the same time in the same quota area, the department shall conduct a separate competitive bidding process at separate times for each available license.*

~~(11)(6)~~ A person holding a license to sell beer for consumption on the premises at retail may apply to the department for an amendment to the license permitting the holder to sell wine as well as beer. The department may issue an amendment if it finds, on a satisfactory showing by the applicant, that the sale of wine for consumption on the premises would be supplementary to a restaurant or prepared-food business. Except for beer and wine licenses issued pursuant to 16-4-420, a person holding a beer and wine license may sell wine for consumption on or off the premises. Nonretention of the beer license, for whatever reason, means automatic loss of the wine amendment license.

~~(12)(7)~~ Except as provided in subsection (1)(f), a license issued pursuant to this section after October 1, 1997, must have a conspicuous notice that the license may not be used for premises where gambling is conducted.

~~(13)~~ A successful applicant shall pay to the department a \$25,000 original license fee and in subsequent years pay the annual fee for the license as provided in 16-4-501.

(8) An applicant for a license issued through a competitive bidding process in [section 1] shall pay a \$25,000 new license fee and in subsequent years pay the annual fee for the license as provided in 16-4-501.

~~(14)(9)~~ The department may adopt rules to implement this section. (Terminates December 31, 2023--sec. 17, Ch. 5, Sp. L. November 2017.)

~~16-4-105. (Effective January 1, 2024) Limit on retail beer licenses -- wine license amendments -- limitation on use of license -- exceptions -- lottery -- rulemaking.~~ (1) Except as provided in 16-4-109, 16-4-110, 16-4-115, 16-4-420, and chapter 4, part 3, of this title, a license to sell beer at retail or beer and wine at retail, in accordance with the provisions of this code and the rules of the department, may be issued to any person or business entity that is approved by the department, subject to the following exceptions:

(a) The number of retail beer licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of the cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows:

(i) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the corporate limits of the towns, not more than one retail beer license;

(ii) in incorporated cities or incorporated towns of more than 500 inhabitants and not over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities or towns, one retail beer license for every 500 inhabitants;

(iii) in incorporated cities of over 2,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities, four retail beer licenses for the first 2,000 inhabitants, two additional retail beer licenses for the next 2,000 inhabitants or major fraction of 2,000 inhabitants, and one additional retail beer license for every additional 2,000 inhabitants.

(b) The number of inhabitants in each incorporated city or incorporated town, exclusive of the number of inhabitants residing within a distance of 5 miles from the corporate limits of the city or town, governs the number of retail beer licenses that may be issued for use within the city or town and within a distance of 5 miles from the corporate limits of the city or town. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town.

(c) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town,

the quota area for each city or town terminates in a straight line equidistant between each city or town:

(d) Retail beer licenses of issue on March 7, 1947, and retail beer licenses issued under 16-4-110 that are in excess of the limitations in this section are renewable, but new licenses may not be issued in violation of the limitations:

(e) The limitations do not prevent the issuance of a nontransferable and nonassignable retail beer license to an enlisted persons', noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985, or to a post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in existence for a period of 5 years or more prior to January 1, 1949:

(f) The number of retail beer licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles from the corporate limits or for use at premises situated within any unincorporated area must be determined by the department in its discretion, except that a retail beer license may not be issued for any premises so situated unless the department determines that the issuance of the license is required by public convenience and necessity pursuant to 16-4-203. Subsection (5) does not apply to licenses issued under this subsection (1)(f). The owner of the license whose premises are situated outside of an incorporated city or incorporated town may offer gambling, regardless of when the license was issued, if the owner and premises qualify under Title 23, chapter 5, part 3, 5, or 6:

(2) (a) For a period of 7 years after January 1, 2024, existing licenses as of November 24, 2017, in either of two quota areas that were established as provided in subsection (1)(c) may be transferred between the two quota areas if they were part of a combined quota area prior to November 24, 2017:

(b) If any new retail beer licenses are allowed by separating a combined quota area that existed as of November 24, 2017, as provided in subsection (1)(c), the department shall publish the availability of no more than one new beer license a year until the quota has been reached:

(3) A license issued under subsection (1)(f) that becomes located within 5 miles of an incorporated city or town because of annexation after April 15, 2005, may not be transferred to another location within the city quota area for 5 years from the date of the annexation:

(4) A person holding a license to sell beer for consumption on the premises at retail may apply to the department for an amendment to the license permitting the holder to sell wine as well as beer. The department may issue an amendment if it finds, on a satisfactory showing by the applicant, that the sale of wine for consumption on the premises would be supplementary to a restaurant or prepared food business. Except for beer and wine licenses issued pursuant to 16-4-420, a person holding a beer and wine license may sell wine for consumption on or off the premises. Nonretention of the beer license, for whatever reason, means automatic loss of the wine amendment license:

(5) Except as provided in subsection (1)(f), a license issued pursuant to this section after October 1, 1997, must have a conspicuous notice that the license may not be used for premises where gambling is conducted:

(6) (a) When the department determines that a quota area is eligible for an additional retail beer license as provided in this section, the department shall advertise the availability of the license in the quota area for which the license is available. If there are more applicants than number of licenses available, the license must be awarded to an applicant by a lottery:

(b) The department shall numerically rank all applicants in the lottery. Only the successful applicants will be required to submit a completed application and a one-time processing fee set by the department by rule. An applicant's ranking may not be sold or transferred to another person or business entity. An applicant's ranking applies only to the intended license advertised by the department or to the number of licenses determined to be available for the lottery when there are more applicants than licenses available. The department shall determine an applicant's qualifications for a retail beer license awarded by lottery prior to the award of a license by lottery.

(c) A successful lottery applicant shall pay to the department a \$25,000 original license fee and in subsequent years pay the annual fee for the license as provided in 16-4-501.

(d) (i) The successful lottery applicant is subject to forfeiture of the license and the original license fee if the successful lottery applicant:

(A) proposes a location for the license that had the same license type within the previous 12 months;

(B) transfers a license awarded by lottery within 5 years of receiving the license; or

(C) does not use the license within 1 year of receiving the license or stops using the license within 5 years. The department may extend the time for use if the lottery winner provides evidence the delay in use is for reasons outside the applicant's control.

(ii) In the case of forfeiture, the department shall offer the license to the next eligible ranked applicant in the lottery.

(7) The department may adopt rules to implement this section."

Section 3. Section 16-4-201, MCA, is amended to read:

"16-4-201. All-beverages license quota. (1) Except as otherwise provided by law, a license to sell liquor, beer, and table wine at retail, an all-beverages license, in accordance with the provisions of this code and the rules of the department, may be issued to any person who is approved by the department as a fit and proper person to sell alcoholic beverages, except that the number of all-beverages licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of 5 miles from of the corporate limits of those cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows:

(a) in incorporated towns of 500 inhabitants or less *fewer* and within a distance of 5 miles from of the corporate limits of the towns, not more than two retail licenses;

(b) in incorporated cities or incorporated towns of more than 500 inhabitants and not *over more than* 3,000 inhabitants and within a distance of 5 miles from of the corporate limits of the cities and towns, three retail licenses for the first 1,000 inhabitants and one retail license for each additional 1,000 inhabitants;

(c) in incorporated cities of *over more than* 3,000 inhabitants and within a distance of 5 miles from of the corporate limits of the cities, five retail licenses for the first 3,000 inhabitants and one retail license for each additional 1,500 inhabitants.

(2) The number of inhabitants in each incorporated city or incorporated town, exclusive of the number of inhabitants residing within a distance of 5 miles from of the corporate limits of the city or town, governs the number of retail licenses that may be issued for use within the city or town and within a distance of 5 miles from of the corporate limits of the city or town. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city

or town. A license that is restricted by quota limitations in this section may not be located farther than:

(a) the county boundary within which the incorporated city or incorporated town is located; or

(b) the line that separates the incorporated city's or incorporated town's boundary from another incorporated city or incorporated town as specified in this section.

(3) (a) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town.

(b) If there are more than two overlapping quota areas, the quota area for each city or town terminates from the center of the overlap in a straight line to the intersecting exterior point of overlap. Licenses existing as of November 24, 2017, will be designated as belonging to whichever quota area they are in as a result of the straight line equidistant between each city or town, except for the following:

(i) In the Helena and East Helena previously combined quota area, the straight line will be drawn connecting the two outermost edges of the Helena corporate boundaries and extend outward to the quota area boundaries. Any license existing as of November 24, 2017, with a physical address of Helena will become a Helena license or with a physical address of East Helena will become an East Helena license, regardless of where it falls in the new quota areas.

(ii) In the Pinesdale and Hamilton previously combined quota area, the straight line will be drawn along Mill Creek road to the quota area boundaries.

(iii) In the Polson and Ronan quota areas, the straight line will be drawn from U.S. highway 93 west on Pablo West road to the quota area boundary and east on Clairmont road extending out to the quota area boundary. Any license existing as of November 24, 2017, within the Polson quota area will become a Polson license, regardless of where it falls in the new quota areas. Any license existing as of November 24, 2017, within the Ronan quota area will become a Ronan license, regardless of where it falls in the new quota areas.

(4) For a period of 12 years after November 24, 2017, existing licenses or licenses that resulted from applications in process as of November 24, 2017, in either of two quota areas that were established as provided in subsection (3) may be transferred between the two quota areas if they were part of a the combined quota area prior to November 24, 2017.

(5) (a) If any new retail all-beverages licenses are allowed by separating a combined quota area that existed as of November 24, 2017, as provided in subsection (3), the department shall publish the availability of no more than one new retail all-beverages license a year until the quota has been reached. The department shall use a competitive bidding process as provided in [section 1] to determine the party afforded the opportunity to apply for the new license.

(b) If any new all-beverages licenses are allowed by license transfers as provided in subsection (4), the department may publish the availability of more than one new license a year until the quota has been reached.

(6) Except as provided in subsection (5)(a), when more than one new all-beverages license becomes available at the same time in the same quota area, the department shall conduct a separate competitive bidding process at separate times for each available license.

(6)(7) Retail all-beverages licenses of issue on March 7, 1947, and all-beverages licenses issued under 16-4-209 that are in excess of the limitations in subsections (1) and (2) are renewable, but new licenses may not be issued in violation of the limitations.

(7)(8) The limitations in subsections (1) and (2) do not prevent the issuance of a nontransferable and nonassignable, as to ownership only, retail license to an enlisted personnel, noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985, or to any post of a nationally chartered veterans' organization or any lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in existence for a period of 5 years or more prior to January 1, 1949.

(8)(9) The number of retail all-beverages licenses that the department may issue for use at premises situated ~~outside of more than 5 miles outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles from the corporate limits of a city or town~~ may not be more than one license for each 750 in population of the county after excluding the population of incorporated cities and incorporated towns in the county.

(9)(10) An all-beverages license issued under subsection (8) (9) that becomes located within 5 miles of an incorporated city or town because of annexation after April 15, 2005, may not be transferred to another location within the city quota area for *any sooner than 5 years* from the date of annexation.

(10)(11) The department may adopt rules to implement this section."

Section 4. Section 16-4-204, MCA, is amended to read:

"16-4-204. (Temporary) Transfer – catering endorsement – competitive bidding – rulemaking. (1) (a) Except as provided in subsection (9) (3), a license may be transferred to a new owner and to a location outside the quota area where the license is currently located only when the following criteria are met:

(i) the total number of all-beverages licenses in the current quota area exceeded the quota for that area by at least 25% in the most recent census prescribed in 16-4-502;

(ii) the total number of all-beverages licenses in the quota area to which the license would be transferred, exclusive of those issued under 16-4-209(1)(a) and (1)(b), did not exceed that area's quota in the most recent census prescribed in 16-4-502:

(A) by more than 33%; or

(B) in an incorporated city of more than 10,000 inhabitants and within a ~~distance of 5 miles from~~ of its corporate limits, by more than 43%; or

(iii) the department finds, after a public hearing, that the public convenience and necessity would be served by a transfer.

(b) A license transferred pursuant to subsection (1)(a) that was issued pursuant to a competitive bidding process is not eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6.

(2) When the department determines that a license may be transferred from one quota area to another under ~~16-4-201(1) or (4)~~ *subsection (1)*, the department shall use a competitive bidding process *as provided in [section 1]* to determine the party afforded the opportunity to purchase and transfer a license. ~~The department shall:~~

~~(a) determine the minimum bid based on 75% of the market value of all-beverages licenses in the quota area;~~

~~(b) publish notice that a quota area is eligible for a license transfer;~~

~~(c) notify the bidder with the highest bid; and~~

~~(d) keep confidential the identity of bidders, number of bids, and bid amounts until the highest bidder has been approved.~~

~~(3) To enter the competitive bidding process, a bidder shall submit:~~

~~(a) an application form provided by the department; and~~

~~(b) an irrevocable letter of credit from a financial institution establishing the department as the beneficiary of the bid amount.~~

(4) In the case of a tie for the highest bid, the tied bidders may submit new bids. The minimum bid must be set at the tied bid amount. To submit a new bid, a tied bidder shall submit:

(a) an application form provided by the department; and

(b) an irrevocable letter of credit from a financial institution establishing the department as the beneficiary of the new bid amount.

(5) The highest bidder shall:

(a) submit an application provided by the department and applicable fees for the license within 60 days of the department's notification of being the highest bidder;

(b) pay the bid amount prior to the license being approved;

(c) meet all other requirements to own an all-beverages license; and

(d) commence business within 1 year of the department's notification unless the department grants an extension because commencement was delayed by circumstances beyond the applicant's control.

(6) If the highest bidder is not approved to own the license, the department shall offer the license to the next highest bidder. That bidder shall comply with the requirements of subsection (5).

(7) If no bids are received during the competitive bidding process or if a quota area is already eligible for another license transfer under subsection (1), the department shall process applications to transfer a license in the order received.

(8) (a) The successful applicant is subject to forfeiture of the license and the original license fee if the successful applicant:

(i) transfers an awarded license to another person after receiving the license unless that transfer is due to the death of an owner;

(ii) does not use the license within 1 year of receiving the license or stops using the license within 5 years. The department may extend the time for use if the successful applicant provides evidence that the delay in use is for reasons outside the applicant's control; or

(iii) proposes a location for the license that had the same license type within the previous 12 months.

(b) If a license is forfeited, the department shall offer the license to the next eligible highest bidder in the auction.

(9)(3) A license within an incorporated quota area may be transferred to a new owner and to a new unincorporated location within the same county on application to and with consent of the department when the total number of all-beverages licenses in the current quota area, exclusive of those issued under 16-4-209(1)(a) and (1)(b), exceeds the quota for that area by at least 25% in the most recent census and will not fall below that level because of the transfer.

(10)(4) A license issued under 16-4-209(1)(a) may not be transferred to a location outside the quota area and the exterior boundaries of the Montana Indian reservation for which it was originally issued.

(11)(5) (a) Any all-beverages licensee is, upon the approval and in the discretion of the department, entitled to a catering endorsement to the licensee's all-beverages license to allow the catering and sale of alcoholic beverages to persons attending a special event upon on premises not otherwise licensed for the sale of alcoholic beverages for on-premises consumption. The alcoholic beverages must be consumed on the premises where the event is held.

(b) A written application for a catering endorsement and an annual fee of \$250 must be submitted to the department for its approval.

(c) An all-beverages licensee who holds an endorsement granted under this subsection (11)(5) may not cater an event in which the licensee is the sponsor.

The catered event must be within 100 miles of the licensee's regular place of business.

(d) The licensee shall notify the local law enforcement agency that has jurisdiction over the premises where the catered event is to be held. A fee of \$35 must accompany the notice.

(e) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-6-103.

(f) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-3-306, unless entities named in 16-3-306 give their written approval.

(g) A catering endorsement issued for the purpose of selling and serving beer at a special event conducted on the premises of a county fairground or public sports arena authorizes the licensee to sell and serve beer in the grandstand and bleacher area of the premises, as well as from a booth, stand, or other fixed place on the premises.

(h) A licensee may not share revenue from the sale of alcoholic beverages with the sponsor of the catered event unless the sponsor is the state of Montana, a political subdivision of the state, or a qualified entity under section 501(c) of the Internal Revenue Code, 26 U.S.C. 501(c), as amended.

(12)(6) The department may adopt rules to implement this section.
(Terminates December 31, 2023--sec. 17, Ch. 5, Sp. L. November 2017.)

16-4-204. — (Effective January 1, 2024) Transfer — catering endorsement — rulemaking. (1) (a) Except as provided in subsection (2), a license may be transferred to a new owner and to a location outside the quota area where the license is currently located only when the following criteria are met:

(i) the total number of all-beverages licenses in the current quota area exceeded the quota for that area by at least 25% in the most recent census prescribed in 16-4-502;

(ii) the total number of all-beverages licenses in the quota area to which the license would be transferred, exclusive of those issued under 16-4-209(1)(a) and (1)(b), did not exceed that area's quota in the most recent census prescribed in 16-4-502;

(A) by more than 33%; or

(B) in an incorporated city of more than 10,000 inhabitants and within a distance of 5 miles from its corporate limits, by more than 43%; or

(iii) the department finds, after a public hearing, that the public convenience and necessity would be served by a transfer; and

(iv) an applicant for the new ownership to be awarded on a lottery basis by the department has met the following criteria:

(A) the applicant had not made another application under this subsection (1)(a) for a lottery-awarded license within the previous 12 months;

(B) the applicant has provided with the application an irrevocable letter of credit from a financial institution that guarantees the applicant's ability to pay \$100,000; and

(C) the applicant or, if the applicant is not an individual, a person with an ownership interest in the applicant does not have an ownership interest in an all-beverages license.

(b) A license transferred pursuant to subsection (1)(a) that was issued pursuant to a lottery is not eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6.

(c) A successful lottery applicant shall commence business within 1 year of the lottery unless the department grants an extension because a delay was caused by circumstances beyond the control of the applicant.

(2) A license within an incorporated quota area may be transferred to a new owner and to a new unincorporated location within the same county on application to and with consent of the department when the total number of all-beverages licenses in the current quota area, exclusive of those issued under 16-4-209(1)(a) and (1)(b), exceeds the quota for that area by at least 25% in the most recent census and will not fall below that level because of the transfer.

(3) A license issued under 16-4-209(1)(a) may not be transferred to a location outside the quota area and the exterior boundaries of the Montana Indian reservation for which it was originally issued.

(4) (a) Any all-beverages licensee is, upon the approval and in the discretion of the department, entitled to a catering endorsement to the licensee's all-beverages license to allow the catering and sale of alcoholic beverages to persons attending a special event upon premises not otherwise licensed for the sale of alcoholic beverages for on-premises consumption. The alcoholic beverages must be consumed on the premises where the event is held.

(b) A written application for a catering endorsement and an annual fee of \$250 must be submitted to the department for its approval.

(c) An all-beverages licensee who holds an endorsement granted under this subsection (4) may not cater an event in which the licensee is the sponsor. The catered event must be within 100 miles of the licensee's regular place of business.

(d) The licensee shall notify the local law enforcement agency that has jurisdiction over the premises where the catered event is to be held. A fee of \$35 must accompany the notice.

(e) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-6-103.

(f) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-3-306, unless entities named in 16-3-306 give their written approval.

(g) A catering endorsement issued for the purpose of selling and serving beer at a special event conducted on the premises of a county fairground or public sports arena authorizes the licensee to sell and serve beer in the grandstand and bleacher area of the premises, as well as from a booth, stand, or other fixed place on the premises.

(h) A licensee may not share revenue from the sale of alcoholic beverages with the sponsor of the catered event unless the sponsor is the state of Montana, a political subdivision of the state, or a qualified entity under section 501(c) of the Internal Revenue Code, 26 U.S.C. 501(c), as amended.

(5) The department may adopt rules to implement this section."

Section 5. Section 16-4-207, MCA, is amended to read:

"16-4-207. Notice of application -- investigation -- publication -- protest. (1) When an application has been filed with the department for a license to sell alcoholic beverages at retail or to transfer the location of a retail license, the department shall review the application for completeness and, based upon review of the application and any other information supplied to the department, determine whether the applicant or the premises to be licensed meets criteria provided by law. The department may make one request for additional information necessary to complete the application. The application is considered complete when the applicant furnishes the application information requested by the department. When the application is complete, the department of justice shall investigate the application as provided in 16-4-402. When the department determines that an application for a license under this code is complete, the department shall publish in a newspaper of general circulation in the city, town, or county from which the

application comes a notice that the applicant has made application for a retail on-premises license or a transfer of location and that protests may be made against the approval of the application by residents of the county from which the application comes, residents of adjoining Montana counties, or residents of adjoining counties in another state if the criteria in subsection (4)(d) are met. Protests must be mailed to the department within 10 days after the final notice is published. Notice of application for a new license must be published once a week for 4 consecutive weeks. Notice of application for transfer of ownership or location of a license must be published once a week for 2 consecutive weeks. Notice may be substantially in the following form:

**NOTICE OF APPLICATION FOR RETAIL
ALL-BEVERAGES LICENSE**

Notice is given that on the day of, 20..., one (name of applicant) filed an application for a retail all-beverages license with the Montana department of revenue to be used at (describe location of premises where beverages are to be sold). Residents of counties may protest against the approval of the application. Each protestor is required to mail a letter that contains in legible print the protestor's full name, mailing address, and street address. Each letter must be signed by the protestor. A protest petition bearing the names and signatures of persons opposing the approval of an application may not be considered as a protest. Protests may be mailed to, department of revenue, Helena, Montana, on or before the day of, 20.....

Dated

Signed

(2) Each applicant shall, at the time of filing an application, pay to the department an amount sufficient to cover the costs of publishing the notice.

(3) (a) If the department receives no written protests, the department may approve the application without holding a public hearing.

(b) A response to a notice of opportunity to protest an application may not be considered unless the response is a letter satisfying all the requirements contained in the notice in subsection (1).

(c) If the department receives sufficient written protests that satisfy the requirements in subsection (1) against the approval of the application, the department shall hold a public hearing as provided in subsection (4).

(4) (a) If the department receives at least one protest but less than the number of protests required for a public convenience and necessity determination as specified in subsection (4)(c), the department shall schedule a public hearing to be held in Helena, Montana, to determine whether the protest presents sufficient cause to deny the application based on the qualifications of the applicant as provided in 16-4-401 or on the grounds for denial of an application provided for in 16-4-405, exclusive of public convenience and necessity. The hearing must be governed by the provisions of Title 2, chapter 4, part 6.

(b) If the department receives the number of protests required for a public convenience and necessity determination as specified in subsection (4)(c) and the application is for an original license or for a transfer of location, the department shall schedule a public hearing to be held in the county of the proposed location of the license to determine whether the protest presents sufficient cause to deny the application based on the qualifications of the applicant as provided in 16-4-401 or on the grounds for denial of an application provided for in 16-4-405 including public convenience and necessity. The hearing must be governed by the provisions of Title 2, chapter 4, part 6.

(c) The minimum number of protests necessary to initiate a public hearing to determine whether an application satisfies the requirements for public convenience and necessity, as specified in 16-4-203, for the proposed premises located within a quota area described in 16-4-201 must be 25% of the quota for all-beverages licenses determined for that quota area according to 16-4-201(1), (2), and (8) (9) but in no case less than two. The minimum number of protests determined in this manner will apply only to applications for either on-premises consumption beer or all-beverages licenses.

(d) A resident of a county in another state that adjoins the county in Montana from which an application comes may protest an application only if the county or state of residence of the person has certified to the department that a similarly situated Montana resident would be able to make formal protest of a liquor license application in that state or county. The department may, by rule, establish how the certification is to be made.”

Section 6. Section 16-4-305, MCA, is amended to read:

“16-4-305. (Temporary) Montana heritage retail alcoholic beverage licenses – use – quota. (1) (a) The Montana heritage preservation and development commission may use Montana heritage retail alcoholic beverage licenses within the quota area in which the licenses were originally issued, for the purpose of providing retail alcoholic beverage sales on property acquired by the state under Title 22, chapter 3, part 10. The licenses are to be considered when determining the appropriate quotas for issuance of other retail liquor licenses.

(b) The department may issue a wine amendment pursuant to 16-4-105(1)(6) if the use of a Montana heritage retail alcoholic beverage license for the sale of beer meets all the requirements of that section.

(2) The Montana heritage preservation and development commission may lease a Montana heritage retail alcoholic beverage license to an individual or entity approved by the department.

(3) Montana heritage retail alcoholic beverage licenses are subject to all laws and rules governing the use and operation of retail liquor licenses.

(4) For the purposes of this section, “Montana heritage retail alcoholic beverage licenses” are all-beverages liquor licenses and retail on-premises beer licenses that have been transferred to the Montana heritage preservation and development commission under the provisions of section 2, Chapter 251, Laws of 1999. (Terminates December 31, 2023--sec. 17, Ch. 5, Sp. L. November 2017.)

~~16-4-305. (Effective January 1, 2024) Montana heritage retail alcoholic beverage licenses – use – quota.~~ (1) (a) The Montana heritage preservation and development commission may use Montana heritage retail alcoholic beverage licenses within the quota area in which the licenses were originally issued, for the purpose of providing retail alcoholic beverage sales on property acquired by the state under Title 22, chapter 3, part 10. The licenses are to be considered when determining the appropriate quotas for issuance of other retail liquor licenses.

(b) The department may issue a wine amendment pursuant to 16-4-105(4) if the use of a Montana heritage retail alcoholic beverage license for the sale of beer meets all the requirements of that section.

(2) The Montana heritage preservation and development commission may lease a Montana heritage retail alcoholic beverage license to an individual or entity approved by the department.

(3) Montana heritage retail alcoholic beverage licenses are subject to all laws and rules governing the use and operation of retail liquor licenses.

(4) For the purposes of this section, “Montana heritage retail alcoholic beverage licenses” are all-beverages liquor licenses and retail on-premises beer

licenses that have been transferred to the Montana heritage preservation and development commission under the provisions of section 2, Chapter 251, Laws of 1999.”

Section 7. Section 16-4-306, MCA, is amended to read:

“16-4-306. (Temporary) Transfer of existing license to political subdivision of state – rulemaking. (1) A political subdivision of the state of Montana may apply to the department for the transfer of an existing retail beer or beer and wine license and, upon approval by the department, the political subdivision may own and operate the license or lease the license to a person, firm, corporation, or other entity approved by the department.

(2) A license that is transferred to a political subdivision of the state:

(a) may be transferred only to another political subdivision of the state and not to any other person, firm, corporation, or entity;

(b) does not authorize and may not be used in conjunction with gambling activities except for horseracing as authorized in Title 23, chapter 4;

(c) may be authorized only for a fairgrounds complex owned by the political subdivision;

(d) is authorized for use in all facilities contained in the fairgrounds complex;

(e) is not, with respect to the facilities, subject to the provisions of 16-4-204(11)(5);

(f) must be taken into account in determining the license quota restrictions of 16-4-105; and

(g) is subject to all license fees, laws, and rules applicable to retail beer or beer and wine licenses.

(3) The department may adopt rules to implement the provisions of this section. (Terminates December 31, 2023--sec. 17, Ch. 5, Sp. L. November 2017.)

~~16-4-306. (Effective January 1, 2024) Transfer of existing license to political subdivision of state – rulemaking.~~ (1) A political subdivision of the state of Montana may apply to the department for the transfer of an existing retail beer or beer and wine license and, upon approval by the department, the political subdivision may own and operate the license or lease the license to a person, firm, corporation, or other entity approved by the department.

~~(2) A license that is transferred to a political subdivision of the state:~~

~~(a) may be transferred only to another political subdivision of the state and not to any other person, firm, corporation, or entity;~~

~~(b) does not authorize and may not be used in conjunction with gambling activities except for horseracing as authorized in Title 23, chapter 4;~~

~~(c) may be authorized only for a fairgrounds complex owned by the political subdivision;~~

~~(d) is authorized for use in all facilities contained in the fairgrounds complex;~~

~~(e) is not, with respect to the facilities, subject to the provisions of 16-4-204(4);~~

~~(f) must be taken into account in determining the license quota restrictions of 16-4-105; and~~

~~(g) is subject to all license fees, laws, and rules applicable to retail beer or beer and wine licenses.~~

~~(3) The department may adopt rules to implement the provisions of this section.”~~

Section 8. Section 16-4-402, MCA, is amended to read:

“16-4-402. (Temporary) Application – investigation. (1) Prior to the issuance of a license under this chapter, the applicant shall file with the department an application containing information and statements relative to

the applicant and the premises where the alcoholic beverage is to be sold as required by the department.

(2) (a) Upon receipt of a completed application for a license under this code, accompanied by the necessary license fee or letter of credit as provided in 16-4-501(7)(f), the department of justice shall make a thorough investigation of all matters relating to the application. Based on the results of the investigation or on other information, the department shall determine whether:

(i) the applicant is qualified to receive a license;

(ii) the applicant's premises are suitable for the carrying on of the business; and

(iii) the requirements of this code and the rules promulgated by the department are met and complied with.

(b) This subsection (2) does not apply to a catering endorsement provided in 16-4-111 or 16-4-204~~(11)~~(5), a retail beer and wine license for off-premises consumption as provided in 16-4-115, or a special permit provided in 16-4-301.

(c) For an original license application and an application for transfer of location of a license, the department of justice's investigation and the department's determination under this subsection (2) must be completed within 90 days of the receipt of a completed application. If information is requested from the applicant by either department, the time period in this subsection (2)(c) is tolled until the requested information is received by the requesting department. The time period is also tolled if the applicant requests and is granted a delay in the license determination or if the license is for premises that are to be altered, as provided in 16-3-311, or newly constructed. The basis for the tolling of the deadline must be documented.

(3) (a) Upon proof that an applicant made a false statement in any part of the original application, in any part of an annual renewal application, or in any hearing conducted pursuant to an application, the application for the license may be denied, and if issued, the license may be revoked.

(b) A statement on an application or at a hearing that is based upon a verifiable assertion made by a governmental officer, employee, or agent that an applicant relied upon in good faith may not be used as the basis of a false statement for a denial or revocation of a license.

(4) The department shall issue a conditional approval letter upon the last occurrence of either:

(a) completion of the investigation and determination provided for in subsection (2) if the department has not received information that would cause the department to deny the application; or

(b) a final agency decision that either denies or dismisses a protest against the approval of an application pursuant to 16-4-207.

(5) The conditional approval letter must state the reasons upon which the future denial of the application may be based. The reasons for denial of the application after the issuance of the conditional approval letter are as follows:

(a) there is false or erroneous information in the application;

(b) the premises are not approved by local building, health, or fire officials;

(c) there are physical changes to the premises that if known prior to the issuance of the conditional approval letter would have constituted grounds for the denial of the application or denial of the issuance of the conditional approval; or

(d) a final decision by a court exercising jurisdiction over the matter either reverses or remands the department's final agency decision provided for in subsection (4). ~~(Terminates December 31, 2023--sec. 17, Ch. 5, Sp. L. November 2017.)~~

~~16-4-402. (Effective January 1, 2024) Application -- investigation.~~

~~(1) Prior to the issuance of a license under this chapter, the applicant shall file with the department an application containing information and statements relative to the applicant and the premises where the alcoholic beverage is to be sold as required by the department.~~

~~(2) (a) Upon receipt of a completed application for a license under this code, accompanied by the necessary license fee or letter of credit as provided in 16-4-501(7)(f), the department of justice shall make a thorough investigation of all matters relating to the application. Based on the results of the investigation or on other information, the department shall determine whether:~~

~~(i) the applicant is qualified to receive a license;~~

~~(ii) the applicant's premises are suitable for the carrying on of the business; and~~

~~(iii) the requirements of this code and the rules promulgated by the department are met and complied with.~~

~~(b) This subsection (2) does not apply to a catering endorsement provided in 16-4-111 or 16-4-204(4), a retail beer and wine license for off-premises consumption as provided in 16-4-115, or a special permit provided in 16-4-301.~~

~~(c) For an original license application and an application for transfer of location of a license, the department of justice's investigation and the department's determination under this subsection (2) must be completed within 90 days of the receipt of a completed application. If information is requested from the applicant by either department, the time period in this subsection (2)(c) is tolled until the requested information is received by the requesting department. The time period is also tolled if the applicant requests and is granted a delay in the license determination or if the license is for premises that are to be altered, as provided in 16-3-311, or newly constructed. The basis for the tolling of the deadline must be documented.~~

~~(3) (a) Upon proof that an applicant made a false statement in any part of the original application, in any part of an annual renewal application, or in any hearing conducted pursuant to an application, the application for the license may be denied, and if issued, the license may be revoked.~~

~~(b) A statement on an application or at a hearing that is based upon a verifiable assertion made by a governmental officer, employee, or agent that an applicant relied upon in good faith may not be used as the basis of a false statement for a denial or revocation of a license.~~

~~(4) The department shall issue a conditional approval letter upon the last occurrence of either:~~

~~(a) completion of the investigation and determination provided for in subsection (2) if the department has not received information that would cause the department to deny the application; or~~

~~(b) a final agency decision that either denies or dismisses a protest against the approval of an application pursuant to 16-4-207.~~

~~(5) The conditional approval letter must state the reasons upon which the future denial of the application may be based. The reasons for denial of the application after the issuance of the conditional approval letter are as follows:~~

~~(a) there is false or erroneous information in the application;~~

~~(b) the premises are not approved by local building, health, or fire officials;~~

~~(c) there are physical changes to the premises that if known prior to the issuance of the conditional approval letter would have constituted grounds for the denial of the application or denial of the issuance of the conditional approval; or~~

~~(d) a final decision by a court exercising jurisdiction over the matter either reverses or remands the department's final agency decision provided for in subsection (4):"~~

Section 9. Section 16-4-420, MCA, is amended to read:

"16-4-420. (Temporary) Restaurant beer and wine license – competitive bidding – rulemaking. (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions:

(a) the applicant complies with the licensing criteria provided in 16-4-401 for an on-premises consumption license;

(b) the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that:

(i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food;

(ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and

(iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule;

(c) the applicant understands and acknowledges in writing on the application that this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine license will be used, the activity must be discontinued or the machines must be removed before the restaurant beer and wine license takes effect; and

(d) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating.

(2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location.

(b) (i) An on-premises retail licensee who sells the licensee's existing retail license may not apply for a license under this section for a period of 1 year from the date that license is transferred to a new purchaser.

(ii) A person, including an individual, with an ownership interest in an existing on-premises retail license that is being transferred to a new purchaser may not attain an ownership interest in a license applied for under this section for a period of 1 year from the date that the existing on-premises retail license is transferred to a new purchaser.

(3) A completed application for a license under this section and the appropriate application fee, as provided in subsection ~~(11)~~(14), must be submitted to the department. The department shall investigate the items relating to the application as described in subsections (3)(a) through (3)(d). Based on the results of the investigation and the exercise of its sound discretion, the department shall determine whether:

(a) the applicant is qualified to receive a license;

(b) the applicant's premises are suitable for the carrying on of the business;

(c) the requirements of this code and the rules promulgated by the department are complied with; and

(d) the seating capacity stated on the application is correct.

(4) An application for a beer and wine license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(5) If a premises proposed for licensing under this section is a new or remodeled structure, then the department may issue a conditional license prior to completion of the premises based on reasonable evidence, including a statement from the applicant's architect or contractor confirming that the seating capacity stated on the application is correct, that the premises will be suitable for the carrying on of business as a bona fide restaurant, as defined in subsection (6).

(6) (a) For purposes of this section, "restaurant" means a public eating place:

(i) where individually priced meals are prepared and served for on-premises consumption;

(ii) where at least 65% of the restaurant's annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food.

(iii) that has a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant; and

(iv) that serves an evening dinner meal at least 4 days a week for at least 2 hours a day between the hours of 5 p.m. and 11 p.m. The provisions of subsection (6)(b) and this subsection (6)(a)(iv) do not apply to a restaurant for which a restaurant beer and wine license is in effect as of April 9, 2009, or to subsequent renewals of that license.

(b) The term does not mean a fast-food restaurant that, excluding any carry-out business, serves a majority of its food and drink in throw-away containers not reused in the same restaurant.

(7) (a) A restaurant beer and wine license *not issued through a competitive bidding process as provided in [section 1]* may be transferred, on approval by the department, from the original applicant to a new owner of the restaurant only after 1 year of use by the original owner, *unless that transfer is due to the death of an owner*.

(b) A license issued under this section may be jointly owned, and the license may pass to the surviving joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property upon the death of the owner in this state or in another state.

(c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of the department, transfer a restaurant beer and wine license to a new owner.

(8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(ii) for a restaurant located in a quota area with a population of 5,001 to 20,000 persons, as the quota area population is determined in 16-4-105, if the

number of restaurant beer and wine licenses issued in that quota area is equal to or less than 160% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 100% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105; and

(v) for a restaurant located in a quota area that is also a resort community, as defined in 7-6-1501, if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than 200% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through (8)(a)(v), the department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under subsection (8)(a)(i), there must be a one-time adjustment of four additional licenses for that quota area.

(d) *(i) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town. A license that is restricted by quota limitations in this section may not be located farther than:*

(A) the county boundary within which the incorporated city or incorporated town is located; or

(B) the line that separates the incorporated city's or incorporated town's boundary from another incorporated city or incorporated town as specified in this section.

(ii) If there are more than two overlapping quota areas, the quota area for each city or town terminates from the center of the overlap in a straight line to the intersecting exterior point of overlap. Licenses existing as of November 24, 2017, will be designated as belonging to whichever quota area they are in as a result of the straight line equidistant between each city or town, except for the following:

(A) In the Helena and East Helena previously combined quota area, the straight line will be drawn connecting the two outermost edges of the Helena corporate boundaries and extend outward to the quota area boundaries. Any license existing as of November 24, 2017, with a physical address of Helena will become a Helena license or with a physical address of East Helena will become an East Helena license, regardless of where it falls in the new quota areas.

(B) In the Pinesdale and Hamilton previously combined quota area, the straight line will be drawn along Mill Creek road to the quota area boundaries.

(C) In the Polson and Ronan quota areas, the straight line will be drawn from U.S. highway 93 west on Pablo West road to the quota area boundary and east on Clairmont road extending out to the quota area boundary. Any license existing as of November 24, 2017, within the Polson quota area will become a Polson license, regardless of where it falls in the new quota areas. Any license

existing as of November 24, 2017, within the Ronan quota area will become a Ronan license, regardless of where it falls in the new quota areas.

(9) If any new restaurant beer and wine licenses are allowed by separating a combined quota area, pursuant to 16-4-105 as of November 24, 2017, the department shall publish the availability of no more than one new restaurant beer and wine license a year until the quota has been reached. (a) For a period of 12 years after November 24, 2017, existing licenses or licenses that resulted from applications in process as of November 24, 2017, in either of two quota areas that were established as provided in 16-4-105 and subsection (8)(d) of this section may be transferred between the two quota areas if they were part of the combined quota area prior to November 24, 2017.

(b) If any new restaurant beer and wine licenses are allowed by separating a combined quota area that existed as of November 24, 2017, as provided in 16-4-105 and subsection (9)(a) of this section, the department shall publish the availability of no more than one new restaurant beer and wine license a year until the quota has been reached.

(c) If any new restaurant beer and wine licenses are allowed by license transfers as provided in subsection (9)(a), the department may publish the availability of more than one new license a year until the quota has been reached.

(10) Except as provided in subsection (9)(b), when more than one new restaurant beer and wine license becomes available at the same time in the same quota area, the department shall conduct a separate competitive bidding process at separate times for each available license.

(11) When a restaurant beer and wine license becomes available by the initial issuance of licenses under this section or as the result of an increase in the population in a quota area, the nonrenewal of a restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department shall advertise the availability of the license in the quota area for which it is available.

(12) When the department determines that a quota area is eligible for a new restaurant beer and wine license under subsection (9) or (11), the department shall use a competitive bidding process as provided in [section 1] to determine the party afforded the opportunity to apply for a new license. The department shall:

(a) determine the minimum bid based on 75% of the market value of all restaurant beer and wine licenses in the quota area;

(b) publish notice that a quota area is eligible for a new license;

(c) notify the bidder with the highest bid; and

(d) keep confidential the identity of bidders, number of bids, and bid amounts until the highest bidder has been approved.

(13) To enter the competitive bidding process, a bidder shall submit:

(a) an application form provided by the department; and

(b) an irrevocable letter of credit from a financial institution establishing the department as the beneficiary of the bid amount.

(14) The highest bidder shall:

(a) submit an application provided by the department and applicable fees for the license within 60 days of the department's notification of being the highest bidder;

(b) pay the bid amount prior to the license being approved;

(c) meet all other requirements to own a restaurant beer and wine license; and

(d) commence business within 1 year of the department's notification unless the department grants an extension because commencement was delayed by circumstances beyond the applicant's control.

(14) In the case of a tie for the highest bid, the tied bidders may submit new bids. The minimum bid must be set at the tied bid amount. To submit a new bid, a tied bidder shall submit:

(a) an application form provided by the department; and

(b) an irrevocable letter of credit from a financial institution establishing the department as the beneficiary of the new bid amount.

(15) If the highest bidder is not approved to own the license, the department shall offer the license to the next highest bidder. That bidder shall comply with the requirements of subsection (13):

(16) If no bids are received during the competitive bidding process or if a quota area is already eligible for another new license, the department shall process applications for the license in the order received:

(17) (a) The successful applicant is subject to forfeiture of the license and the original license fee if the successful applicant:

(i) transfers an awarded license to another person after receiving the license unless that transfer is due to the death of an owner;

(ii) does not use the license within 1 year of receiving the license or stops using the license within 5 years. The department may extend the time for use if the successful applicant provides evidence that the delay in use is for reasons outside the applicant's control; or

(iii) proposes a location for the license that had the same license type within the previous 12 months:

(b) If a license is forfeited, the department shall offer the license to the next eligible highest bidder in the auction:

(18)(13) Under a restaurant beer and wine license, beer and wine may not be sold for off-premises consumption.

(19)(14) An application for a restaurant beer and wine license must be accompanied by a fee equal to 20% of the initial licensing fee. If the department does not ~~make a decision~~ *decide* either ~~granting or denying to grant or to deny~~ the license within 4 months of receipt of a complete application, the department shall pay interest on the application fee at the rate of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If the department denies an application, the application fee, plus any interest, less a processing fee established by rule, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

(a) \$5,000 for restaurants with a stated seating capacity of 60 persons or ~~less~~ *fewer*;

(b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or

(c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

(20)(15) The annual fee for a restaurant beer and wine license is \$400.

(21)(16) If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

(22)(17) The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the total licenses issued.

(23)(18) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license.

(24)(19) The department may adopt rules to implement this section. (Terminates December 31, 2023--sec. 17, Ch. 5, Sp. L. November 2017.)

16-4-420. (Effective January 1, 2024) Restaurant beer and wine license -- rulemaking. (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions:

(a) the applicant complies with the licensing criteria provided in 16-4-401 for an on-premises consumption license;

(b) the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that:

(i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food;

(ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and

(iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule;

(c) the applicant understands and acknowledges in writing on the application that this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine license will be used, the activity must be discontinued or the machines must be removed before the restaurant beer and wine license takes effect; and

(d) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating.

(2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location.

(b) (i) An on-premises retail licensee who sells the licensee's existing retail license may not apply for a license under this section for a period of 1 year from the date that license is transferred to a new purchaser.

(ii) A person, including an individual, with an ownership interest in an existing on-premises retail license that is being transferred to a new purchaser may not attain an ownership interest in a license applied for under this section for a period of 1 year from the date that the existing on-premises retail license is transferred to a new purchaser.

(3) A completed application for a license under this section and the appropriate application fee, as provided in subsection (11), must be submitted to the department. The department shall investigate the items relating to the application as described in subsections (3)(a) through (3)(d). Based on the results of the investigation and the exercise of its sound discretion, the department shall determine whether:

(a) the applicant is qualified to receive a license;
(b) the applicant's premises are suitable for the carrying on of the business;
(c) the requirements of this code and the rules promulgated by the department are complied with; and

(d) the seating capacity stated on the application is correct.

(4) An application for a beer and wine license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(5) If a premises proposed for licensing under this section is a new or remodeled structure, then the department may issue a conditional license prior to completion of the premises based on reasonable evidence, including a statement from the applicant's architect or contractor confirming that the seating capacity stated on the application is correct, that the premises will be suitable for the carrying on of business as a bona fide restaurant, as defined in subsection (6):

(6) (a) For purposes of this section, "restaurant" means a public eating place:

(i) where individually priced meals are prepared and served for on-premises consumption;

(ii) where at least 65% of the restaurant's annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food.

(iii) that has a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant; and

(iv) that serves an evening dinner meal at least 4 days a week for at least 2 hours a day between the hours of 5 p.m. and 11 p.m. The provisions of subsection (6)(b) and this subsection (6)(a)(iv) do not apply to a restaurant for which a restaurant beer and wine license is in effect as of April 9, 2009, or to subsequent renewals of that license.

(b) The term does not mean a fast-food restaurant that, excluding any carry-out business, serves a majority of its food and drink in throw-away containers not reused in the same restaurant.

(7) (a) A restaurant beer and wine license may be transferred, on approval by the department, from the original applicant to a new owner of the restaurant only after 1 year of use by the original owner.

(b) A license issued under this section may be jointly owned, and the license may pass to the surviving joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property upon the death of the owner in this state or in another state.

(c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of the department, transfer a restaurant beer and wine license to a new owner.

(8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses

issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(ii) for a restaurant located in a quota area with a population of 5,001 to 20,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 160% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 100% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105; and

(v) for a restaurant located in a quota area that is also a resort community, as defined in 7-6-1501, if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than 200% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through (8)(a)(v), the department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under subsection (8)(a)(i), there must be a one-time adjustment of four additional licenses for that quota area.

(d) If there are more applicants than licenses available in a quota area, then the license must be awarded by lottery as provided in subsection (10).

(9) If any new restaurant beer and wine licenses are allowed by separating a combined quota area, pursuant to 16-4-105 as of November 24, 2017, the department shall publish the availability of no more than one new restaurant beer and wine license a year until the quota has been reached.

(10) (a) When a restaurant beer and wine license becomes available by the initial issuance of licenses under this section or as the result of an increase in the population in a quota area, the nonrenewal of a restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department shall advertise the availability of the license in the quota area for which it is available. If there are more applicants than number of licenses available, the license must be awarded to an applicant by a lottery.

(b) A preference must be given to an applicant who does not yet have in any quota area a restaurant beer and wine license or a retail beer license and who operates a restaurant that is in the quota area described in subsection (8) in which the license has become available and that meets the qualifications of subsection (6) for at least 12 months prior to the filing of an application. An applicant with a preference must be awarded a license before any applicant without a preference.

(c) The department shall numerically rank all applicants in the lottery. Only the successful applicants will be required to submit a completed application and a one-time required fee. An applicant's ranking may not be sold or transferred to another person or entity. The preference and an applicant's ranking apply only to the intended license advertised by the department or to

the number of licenses determined under subsection (8) when there are more applicants than licenses available. The applicant's qualifications for any other restaurant beer and wine license awarded by lottery must be determined at the time of the lottery.

(d) If a successful lottery applicant does not use a license within 1 year of notification by the department of license eligibility, the applicant shall forfeit the license. The department shall refund any fees paid except the application fee and offer the license to the next eligible ranked applicant in the lottery.

(11) Under a restaurant beer and wine license, beer and wine may not be sold for off-premises consumption.

(12) An application for a restaurant beer and wine license must be accompanied by a fee equal to 20% of the initial licensing fee. If the department does not make a decision either granting or denying the license within 4 months of receipt of a complete application, the department shall pay interest on the application fee at the rate of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If the department denies an application, the application fee, plus any interest, less a processing fee established by rule, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

(a) \$5,000 for restaurants with a stated seating capacity of 60 persons or less;

(b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or

(c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

(13) The annual fee for a restaurant beer and wine license is \$400.

(14) If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

(15) The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the total licenses issued.

(16) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license.

(17) The department may adopt rules to implement this section."

Section 10. Section 23-5-119, MCA, is amended to read:

"23-5-119. Appropriate alcoholic beverage license for certain gambling activities. (1) Except as provided in subsection (3), to be eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6, an applicant must own in the applicant's name:

(a) a retail all-beverages license issued under 16-4-201, but the owner of a license transferred after July 1, 2007, pursuant to 16-4-204 is not eligible to offer gambling;

(b) except as provided in subsection (1)(c), a license issued prior to October 1, 1997, under 16-4-105, authorizing the sale of beer and wine for consumption on the licensed premises;

(c) a beer and wine license issued in an area outside of an incorporated city or town as provided in 16-4-105(1)(f). The owner of the license whose premises are situated outside of an incorporated city or town may offer gambling, regardless of when the license was issued, if the owner and premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(d) a retail beer and wine license issued under 16-4-109;

(e) a retail all-beverages license issued under 16-4-202; or

(f) a retail all-beverages license issued under 16-4-208.

(2) For purposes of subsection (1)(b), a license issued under 16-4-105 prior to October 1, 1997, may be transferred to a new owner or to a new location or transferred to a new owner and location by the department of revenue pursuant to the applicable provisions of Title 16. The owner of the license that has been transferred may offer gambling if the owner and the premises qualify under Title 23, chapter 5, part 3, 5, or 6.

(3) Lessees of retail all-beverages licenses issued under 16-4-208 or beer and wine licenses issued under 16-4-109 who have applied for and been granted a gambling operator's license under 23-5-177 are eligible to offer and may be granted permits for gambling authorized under Title 23, chapter 5, part 3, 5, or 6.

(4) A license transferee or a qualified purchaser operating pending final approval under 16-4-404(6) who has been granted a gambling operator's license under 23-5-177 may be granted permits for gambling under Title 23, chapter 5, part 3, 5, or 6.

(5) *A license issued under a competitive bidding process as provided in [section 1] is not eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6."*

Section 11. Repealer. Sections 2, 5, 8, 10, 12, 14, and 17, Chapter 5, Special Laws of November 2017 are repealed.

Section 12. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 16, chapter 4, and the provisions of Title 16, chapter 4, apply to [section 1].

Section 13. Effective date. [This act] is effective on passage and approval.

Section 14. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to existing licenses or licenses that resulted from applications in process for alcohol licenses as of November 24, 2017.

Approved May 7, 2019

CHAPTER NO. 343

[HB 52]

AN ACT GENERALLY REVISING CERTAIN FUND TRANSFERS AND STATUTORY APPROPRIATIONS RELATED TO ECONOMIC DEVELOPMENT PROGRAMS; REVISING LAWS RELATED TO THE FOOD AND AGRICULTURAL DEVELOPMENT PROGRAM AND THE AGRICULTURAL DEVELOPMENT COUNCIL; ELIMINATING RESEARCH AND COMMERCIALIZATION PROGRAM AND FUNDING; AMENDING SECTIONS 10-2-112, 10-2-603, 10-3-801, 15-1-122, 15-35-108, 17-7-502, 80-11-901, 81-1-112, AND 90-9-202, MCA; AMENDING SECTION 10, CHAPTER 10, SPECIAL LAWS OF MAY 2000, SECTIONS 3 AND 6, CHAPTER 481, LAWS OF 2003, AND SECTIONS 2 AND 3, CHAPTER 459, LAWS OF 2009; REPEALING SECTIONS 90-3-1001, 90-3-1002, 90-3-1003, 90-3-1005, AND 90-3-1006, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 10-2-112, MCA, is amended to read:

“10-2-112. Veterans’ services special revenue account – sources of funds – designated uses. (1) There is a veterans’ services account in the state special revenue fund, established pursuant to 17-2-102(1)(b), to the credit of the board.

(2) Money transferred pursuant to ~~15-1-122(3)(d)~~ 15-1-122(2)(d) from license plate sales as described in 10-2-114 and from gifts, grants, or donations must be deposited in the veterans’ services account.

(3) Legislative appropriations of money in the veterans’ services account must be used for the purposes identified in 10-2-102 or other functions authorized by the board.

(4) There is a veterans’ services federal account in the federal special revenue fund established for federal funds received under 10-2-106.”

Section 2. Section 10-2-603, MCA, is amended to read:

“10-2-603. Special revenue account – use of funds – solicitation.

(1) There is an account in the special revenue fund to the credit of the board for the state veterans’ cemeteries.

(2) Plot allowances, donations to the cemetery program, and fund transfers pursuant to ~~15-1-122(3)(d)~~ 15-1-122(2)(d) must be deposited into the account.

(3) The account is statutorily appropriated, as provided in 17-7-502, to the department and may be used by the board only for the construction, maintenance, operation, and administration of the state veterans’ cemeteries.

(4) The board shall solicit veterans’ license plate sales and donations on behalf of the state veterans’ cemeteries.”

Section 3. Section 10-3-801, MCA, is amended to read:

“10-3-801. Account created for funding search and rescue operations – rules. (1) There is an account in the state special revenue fund established in 17-2-102. The account must be administered by the disaster and emergency services division of the department exclusively for the purposes of search and rescue as provided in this section. The department may retain up to 5% of the money in the account to pay its costs of administering this section.

(2) There must be deposited in the account:

(a) fund transfers pursuant to ~~15-1-122(3)(e)~~ 15-1-122(2)(e);

(b) fund transfers pursuant to 87-1-601(10). These funds may be used only as provided in 87-1-601(10).

(c) all money received by the department in the form of gifts, grants, reimbursements, or appropriations from any source intended to be used for search and rescue operations.

(3) (a) Not less than 50% of the money in the account must be used by the department to defray costs of:

(i) local search and rescue units for search and rescue missions conducted through a county sheriff’s office at a maximum of \$6,000 for each rescue mission, regardless of the number of counties or county search and rescue organizations involved. To fulfill the purposes of this subsection (3)(a)(i), the department shall transmit reimbursement money to the county treasurer, who shall deposit the funds in a separate search and rescue fund accessible by the local search and rescue unit that requested the reimbursement. The county treasurer shall notify the reimbursed local search and rescue unit by mail when the deposit occurs.

(ii) a county sheriff’s office at a maximum of \$6,000 for each rescue mission, regardless of the number of counties or county search and rescue organizations involved.

(b) The remaining money in the account may be used by the department:

(i) to match local funds for the purchase of equipment for use by local search and rescue units at a maximum of \$6,000 for each unit in a calendar year. The cost-sharing match must be 35% local funds to 65% from the account.

(ii) for reimbursement of expenses related to the training of search and rescue volunteers.

(4) The department may adopt rules to implement the proper administration of the account. The rules may include:

(a) a method of reimbursing local search and rescue units or a county sheriff's office, on a case-by-case basis, for authorized search and rescue operations conducted pursuant to subsection (3)(a), including verification of search missions, claims procedures, fiscal accountability, and the number and circumstances of search missions involving persons engaged in hunting, fishing, and trapping in a fiscal year;

(b) methods for processing requests for equipment matching funds and training funds made pursuant to subsection (3)(b), including any verification and accounting necessary to ensure that the provisions of subsection (3)(b) are met, and determining the percentage of all search missions involving persons engaged in hunting, fishing, or trapping in a fiscal year;

(c) a system involving input from representatives of county sheriff organizations and state and local search and rescue organizations for assistance in verifying and processing claims for reimbursement, equipment, and training; and

(d) a method for compiling and keeping current a contact list of all search and rescue units in Montana and in neighboring states and provinces in order to ensure collaboration, communication, and cooperation between the various county search and rescue units and between the department and the county units and dedication of a page on the department's website for posting the contact list and other relevant search and rescue information."

Section 4. Section 15-1-122, MCA, is amended to read:

"15-1-122. (Temporary – bracketed language effective July 1, 2023)

Fund transfers. (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, a base amount of \$59,209, and the amount of the transfer must be increased by 10% in each succeeding fiscal year.

~~(2) For fiscal years 2016 through 2019, there is transferred \$1.275 million on an annual basis from the state general fund to the research and commercialization state special revenue account provided for in 90-3-1002.~~

~~(3)(2)~~ For each fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

(a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5, 1.48% of the motor vehicle revenue deposited in the state general fund in each fiscal year. The amount of 9.48% of the allocation in each fiscal year must be used for the purpose of reimbursing the hired removal of abandoned vehicles. Any portion of the allocation not used for abandoned vehicle removal reimbursement must be used as provided in 75-10-532.

(b) to the noxious weed state special revenue account provided for in 80-7-816, 1.50% of the motor vehicle revenue deposited in the state general fund in each fiscal year;

(c) to the department of fish, wildlife, and parks:

(i) 0.46% of the motor vehicle revenue deposited in the state general fund, with the applicable percentage to be:

(A) used to:

(I) acquire and maintain pumpout equipment and other boat facilities, 4.8% in each fiscal year;

(II) administer and enforce the provisions of Title 23, chapter 2, part 5, 19.1% in each fiscal year;

(III) enforce the provisions of 23-2-804, 11.1% in each fiscal year; and

(IV) develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use, 16.7% in each fiscal year; and

(B) deposited in the state special revenue fund established in 23-1-105 in an amount equal to 48.3% in each fiscal year;

(ii) 0.10% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 50% of the amount to be used for enforcing the purposes of Title 23, chapter 2, part 6, and 50% of the amount designated for use in the development, maintenance, and operation of snowmobile facilities; and

(iii) 0.16% of the motor vehicle revenue deposited in the state general fund in each fiscal year to be deposited in the motorboat account to be used as provided in 23-2-533;

(d) 0.81% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 24.55% to be deposited in the state veterans' cemetery account provided for in 10-2-603 and with 75.45% to be deposited in the veterans' services account provided for in 10-2-112(1); and

(e) to the search and rescue account provided for in 10-3-801, 0.04% of the motor vehicle revenue deposited in the state general fund in each fiscal year.

~~(4)~~(3) The amount of \$200,000 is transferred from the state general fund to the livestock loss [reduction and] mitigation restricted state special revenue account provided for in 81-1-112 in each fiscal year.

~~(5)~~(4) For fiscal years 2018 through 2021, there is transferred \$2 million on an annual basis from the state general fund to the sage grouse stewardship account provided for in 76-22-109.

~~(6)~~(5) For the purposes of this section, "motor vehicle revenue deposited in the state general fund" means revenue received from:

(a) fees for issuing a motor vehicle title paid pursuant to 61-3-203;

(b) fees, fees in lieu of taxes, and taxes for vehicles, vessels, and snowmobiles registered or reregistered pursuant to 61-3-321 and 61-3-562;

(c) GVW fees for vehicles registered for licensing pursuant to Title 61, chapter 3, part 3; and

(d) all money collected pursuant to 15-1-504(3).

~~(7)~~(6) Except as provided in ~~subsections (2) and (5)~~ subsection (4), the amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue in the general appropriations act for the designated purposes. (Terminates June 30, 2021--sec. 8, Ch. 360, L. 2017; bracketed language in subsection ~~(4)~~ (3) effective July 1, 2023--sec. 6, Ch. 284, L. 2017.)

15-1-122. (Effective July 1, 2021 -- bracketed language effective July 1, 2023) Fund transfers. (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, a base amount of \$59,209, and the amount of the transfer must be increased by 10% in each succeeding fiscal year.

~~(2) For fiscal years 2016 through 2019, there is transferred \$1.275 million on an annual basis from the state general fund to the research and commercialization state special revenue account provided for in 90-3-1002.~~

~~(3)~~(2) For each fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

(a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5, 1.48% of the motor vehicle revenue deposited in the state general fund in each fiscal year. The amount of 9.48% of the allocation in each fiscal year must be used for the purpose of reimbursing the hired removal

of abandoned vehicles. Any portion of the allocation not used for abandoned vehicle removal reimbursement must be used as provided in 75-10-532.

(b) to the noxious weed state special revenue account provided for in 80-7-816, 1.50% of the motor vehicle revenue deposited in the state general fund in each fiscal year;

(c) to the department of fish, wildlife, and parks:

(i) 0.46% of the motor vehicle revenue deposited in the state general fund, with the applicable percentage to be:

(A) used to:

(I) acquire and maintain pumpout equipment and other boat facilities, 4.8% in each fiscal year;

(II) administer and enforce the provisions of Title 23, chapter 2, part 5, 19.1% in each fiscal year;

(III) enforce the provisions of 23-2-804, 11.1% in each fiscal year; and

(IV) develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use, 16.7% in each fiscal year; and

(B) deposited in the state special revenue fund established in 23-1-105 in an amount equal to 48.3% in each fiscal year;

(ii) 0.10% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 50% of the amount to be used for enforcing the purposes of Title 23, chapter 2, part 6, and 50% of the amount designated for use in the development, maintenance, and operation of snowmobile facilities; and

(iii) 0.16% of the motor vehicle revenue deposited in the state general fund in each fiscal year to be deposited in the motorboat account to be used as provided in 23-2-533;

(d) 0.81% of the motor vehicle revenue deposited in the state general fund in each fiscal year, with 24.55% to be deposited in the state veterans' cemetery account provided for in 10-2-603 and with 75.45% to be deposited in the veterans' services account provided for in 10-2-112(1); and

(e) to the search and rescue account provided for in 10-3-801, 0.04% of the motor vehicle revenue deposited in the state general fund in each fiscal year.

(4)(3) The amount of \$200,000 is transferred from the state general fund to the livestock loss [reduction and] mitigation restricted state special revenue account provided for in 81-1-112 in each fiscal year.

(5)(4) For the purposes of this section, "motor vehicle revenue deposited in the state general fund" means revenue received from:

(a) fees for issuing a motor vehicle title paid pursuant to 61-3-203;

(b) fees, fees in lieu of taxes, and taxes for vehicles, vessels, and snowmobiles registered or reregistered pursuant to 61-3-321 and 61-3-562;

(c) GVW fees for vehicles registered for licensing pursuant to Title 61, chapter 3, part 3; and

(d) all money collected pursuant to 15-1-504(3).

(6)(5) Except as provided in subsection (2), the *The* amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue in the general appropriations act for the designated purposes. (Bracketed language in subsection (4) (3) effective July 1, 2023--sec. 6, Ch. 284, L. 2017.)"

Section 5. Section 15-35-108, MCA, is amended to read:

"15-35-108. (Temporary) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The

trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of ~~0.85%~~ *0.90%* in fiscal year ~~2018~~ *2020* and ~~0.88%~~ *0.93%* in fiscal year ~~2019~~ *2021* *and in each fiscal year thereafter* must be allocated for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking and must be deposited in the basic library services account established in 22-1-202.

(4) The amount of ~~3.89%~~ *3.77%* in fiscal year ~~2018~~ *2020* and ~~3.83%~~ *3.71%* in fiscal year ~~2019~~ *2021* *and in each fiscal year thereafter* must be allocated to the department of natural resources and conservation for conservation districts and deposited in the conservation district account established in 76-15-106.

(5) The amount of ~~0.72%~~ *0.79%* in fiscal year ~~2018~~ *2020* and ~~0.75%~~ *0.82%* in fiscal year ~~2019~~ *2021* *and in each fiscal year thereafter* must be allocated to the Montana Growth Through Agriculture Act and deposited in the growth through agriculture account established in 90-9-104.

(6) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(7) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(8) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(9) ~~The amount of 5.8% through June 30, 2019, and beginning July 1, 2019, the amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).~~

(10) After the allocations are made under subsections (2) through (9), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(11) (a) Subject to subsection (11)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

(b) The interest income of the coal severance tax permanent fund that is deposited in the general fund, ~~less the annual transfer of \$1.275 million to the research and commercialization state special revenue account pursuant to 15-1-122(2);~~ is statutorily appropriated, as provided in 17-7-502, on July 1 each year as follows:

(i) *to the department of agriculture:*

(A) \$65,000 ~~to~~ for the cooperative development center;

(ii) (B) ~~\$625,000~~ *\$900,000* for the growth through agriculture program provided for in Title 90, chapter 9;

(C) *\$600,000 for the Montana food and agricultural development program provided for in Title 80, chapter 11;*

(iii) (ii) *to the department of commerce:*

(A) ~~\$125,000~~ *\$325,000* for a small business development center;

(B) \$50,000 for a small business innovative research program;

(C) ~~\$425,000~~ *\$625,000* for certified regional development corporations;

(D) ~~\$200,000~~ *\$500,000* for the Montana manufacturing extension center at Montana state university-Bozeman; and

(E) \$300,000 for export trade enhancement. (Terminates June 30, 2019--secs. 2, 3, Ch. 459, L. 2009 2027.)

15-35-108. (Effective July 1, 2019 2027) Disposal of severance taxes.

Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 0.90% in fiscal year 2020 and 0.93% in fiscal year 2021 and in each fiscal year thereafter must be allocated for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking and must be deposited in the basic library services account established in 22-1-202.

(4) The amount of 3.77% in fiscal year 2020 and 3.71% in fiscal year 2021 and in each fiscal year thereafter must be allocated to the department of natural resources and conservation for conservation districts and deposited in the conservation district account established in 76-15-106.

(5) The amount of 0.79% in fiscal year 2020 and 0.82% in fiscal year 2021 and in each fiscal year thereafter must be allocated to the Montana Growth Through Agriculture Act and deposited in the growth through agriculture account established in 90-9-104.

(6) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(7) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(8) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(9) The amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(10) After the allocations are made under subsections (2) through (9), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(11) All other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state."

Section 6. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-416; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; ~~90-3-1003~~; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the inclusion

of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023, and pursuant to sec. 2, Ch. 340, L. 2017, and sec. 32, Ch. 429, L. 2017, is void for fiscal years 2018 and 2019; and pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027.)”

Section 7. Section 80-11-901, MCA, is amended to read:

“80-11-901. Montana food and agricultural development program – definition. (1) There is a program administered by the ~~department~~ *agriculture development council provided for in Title 90, chapter 9*, to promote Montana food and agricultural development. The program must ~~fund and~~ *provide grant funding for* Montana food and agricultural development centers ~~that were established before January 1, 2009, and that are charged with:~~

(a) *developing Montana’s capacity to produce food and value-added agricultural products, including farm-derived renewable energy, commodity processing infrastructure, and emerging technologies intended to diversify, add value, or enhance economic growth opportunities for Montana’s agricultural economy;* and

(b) *providing technical assistance and other services to community-based food, agriculture, technology and farm-derived renewable energy entrepreneurs.*

(2) Technical assistance includes but is not limited to business assistance, product development, marketing, nutritional analysis and labeling, education, assistance with food safety regulation compliance, training to educate business professionals and entrepreneurs on industry dynamics and technology of specific bioproduct industries, and evaluating existing and developing technologies.

(3) Each center must be a ~~certified regional development corporation or a nonprofit organization that serves at least a four-county region and shall coordinate with other state-funded programs in order to not duplicate state assistance.~~

(4) As used in this section, “farm-derived renewable energy” means renewable energy produced from products developed by farmers and ranchers, as well as entrepreneurs, using Montana farm and ranch products.”

Section 8. Section 81-1-112, MCA, is amended to read:

“81-1-112. (Temporary) Livestock loss mitigation restricted account. (1) There is an account in the state special revenue fund established by 17-2-102 to be known as the livestock loss mitigation restricted special revenue account. The account is administered by the department.

(2) Each fiscal year, the amount provided in ~~15-1-122(4)~~ *15-1-122(3)* is transferred to the account from the state general fund and is restricted to the purpose of making payments to livestock producers for confirmed and probable livestock losses pursuant to 2-15-3112(2). Money in the account may not be expended for administrative expenses.

(3) The livestock loss mitigation restricted special revenue account is statutorily appropriated, as provided in 17-7-502, to the department for the purpose of making payments to livestock producers as provided in subsection (2) of this section.

(4) On June 30 of each year, any unencumbered funds in the account in excess of \$300,000 must be transferred to the livestock loss reduction restricted special revenue account established in 81-1-113. (Terminates June 30, 2023--secs. 5, 6, Ch. 284, L. 2017.)

81-1-112. (Effective July 1, 2023) Livestock loss reduction and mitigation restricted account. (1) There is an account in the state special revenue fund established by 17-2-102 to be known as the livestock loss

reduction and mitigation restricted special revenue account. The account is administered by the department.

(2) Money is transferred to the account from the state general fund pursuant to 15-1-122 and is restricted to the purpose of making payments to livestock producers for confirmed and probable livestock losses pursuant to 2-15-3112(2). Money in the account may not be expended for administrative expenses.”

Section 9. Section 90-9-202, MCA, is amended to read:

“90-9-202. Powers and duties of council. (1) The council shall:

(a) establish policies and priorities to enhance the future development of agriculture in Montana, including the Indian reservations in the state;

(b) make loans or grants, pursuant to the provisions of Title 90, chapter 9, part 3, that have a short-term or long-term ability to stimulate agriculture development and diversification in rural, urban, and tribal settings in Montana; **and**

(c) accept grants or receive devises of money or property for use in making the loans or grants authorized by this chapter;

(d) *distribute food and agricultural development center funding pursuant to Title 80, chapter 11, part 9, subject to biannual review.*

(2) The council may:

(a) defer or forgive any loan in whole or in part; and

(b) forgive any accrued interest in whole or in part.”

Section 10. Reporting requirements. (1) The department of commerce and department of agriculture shall report to the legislative finance committee on the economic development programs funded pursuant to 15-35-108(11) through [this act].

(2) By May 2020, each agency shall report to the legislative finance committee on the following:

(a) the department’s objective for each program to include the types of economic development to be promoted;

(b) the department’s strategy to implement each economic development program and how the success of each program is measured; and

(c) how funds and benefits of each program are distributed across the state.

(3) The departments shall also provide the legislative fiscal analyst access to all data related to the programs funded in [this act].

Section 11. Section 10, Chapter 10, Special Laws of May 2000, is amended to read:

“Section 10. Termination. (1) [Section 1] terminates June 30, 2001.

(2) ~~[Sections 2 through 4]~~ *[Sections 2 and 4]* terminate June 30, 2005.

(3) *[Section 3] terminates June 30, 2027.”*

Section 12. Section 3, Chapter 481, Laws of 2003, is amended to read:

“Section 3. Section 10, Chapter 10, Special Laws of May 2000, is amended to read:

“Section 10. Termination. (1) [Section 1] terminates June 30, 2001.

(2) ~~[Sections 2 through 4]~~ *[Sections 2 and 4]* terminate June 30, 2005.

~~(3) [Section 3] terminates June 30, 2010.~~

(3) *[Section 3] terminates June 30, 2027.”*

Section 13. Section 6, Chapter 481, Laws of 2003, is amended to read:

“Section 6. Termination. [Section 1] terminates June 30, ~~2010~~ 2027.”

Section 14. Section 2, Chapter 459, Laws of 2009, is amended to read:

“Section 2. Section 3, Chapter 481, Laws of 2003, is amended to read:

“**Section 3.** Section 10, Chapter 10, Special Laws of May 2000, is amended to read:

“**Section 10. Termination.** (1) [Section 1] terminates June 30, 2001.

(2) ~~[Sections 2 through 4]~~ *[Sections 2 and 4]* terminate June 30, 2005.

~~(3) [Section 3] terminates June 30, 2010-2019.~~

~~(3) [Section 3] terminates June 30, 2027.”~~”

Section 15. Section 3, Chapter 459, Laws of 2009, is amended to read:

“**Section 3.** Section 6, Chapter 481, Laws of 2003, is amended to read:

“**Section 6. Termination.** [Section 1] terminates June 30, ~~2010~~ *2019* 2027.””

Section 16. Repealer. The following sections of the Montana Code Annotated are repealed:

90-3-1001. Purpose -- definition.

90-3-1002. Research and commercialization account.

90-3-1003. Research and commercialization account -- use.

90-3-1005. Meetings -- compensation.

90-3-1006. Executive director -- qualifications.

Section 17. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2019.

(2) [Sections 11 through 15] and this section are effective on passage and approval.

Section 18. Termination. [Sections 5 and 10] terminate June 30, 2027.

Approved May 7, 2019

CHAPTER NO. 344

[HB 111]

AN ACT GENERALLY REVISING YOUTH COURT LAWS CONCERNING JUVENILE PLACEMENT AND PAROLE SUPERVISION; TRANSFERRING JUVENILE PAROLE SUPERVISION FROM THE DEPARTMENT OF CORRECTIONS TO THE YOUTH COURT; PROVIDING FOR CONDITIONAL RELEASE IN PLACE OF PAROLE SUPERVISION AND DEFINING THE TERM “CONDITIONAL RELEASE”; PROVIDING THAT THE ESTABLISHMENT OF A YOUTH PLACEMENT COMMITTEE IS PERMISSIVE RATHER THAN MANDATORY; PROVIDING A PROCEDURE WITHIN THE YOUTH COURT FOR CONDUCTING A CONDITIONAL RELEASE REVOCATION HEARING; PROVIDING FOR AN APPROPRIATION; AMENDING SECTIONS 10-1-1402, 20-9-327, 41-5-103, 41-5-121, 41-5-124, 41-5-125, 41-5-130, 41-5-131, 41-5-132, 41-5-215, 41-5-332, 41-5-341, 41-5-1304, 41-5-1432, 41-5-1512, 41-5-1513, 41-5-1522, 41-5-1523, 41-5-1524, 41-5-1604, 41-5-1703, 41-5-2005, 45-5-501, 45-5-502, 46-23-102, 52-5-102, 52-5-103, 52-5-109, 52-5-126, 52-5-127, 52-5-128, AND 53-1-203, MCA; REPEALING SECTION 52-5-129, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Conditional release revocation hearing. (1) (a) If a county attorney files a petition to revoke a youth’s conditional release, the court shall hold a revocation hearing without a jury within 10 working days after the petition is filed, except as provided in subsection (1)(b).

(b) If a youth alleged to have violated the terms and conditions of the youth’s conditional release agreement has been taken into custody and placed

in detention, the court shall conduct a probable cause hearing in accordance with 41-5-332 through 41-5-334.

(i) If the court determines that there is probable cause to believe that the youth has violated the terms and conditions of the youth's conditional release agreement and the county attorney determines that revocation is warranted, the county attorney shall file a petition to revoke within 7 working days. The court shall hold a revocation hearing without a jury within 10 working days after the petition has been filed.

(ii) If the county attorney does not file a petition to revoke, the youth must be released unless good cause is shown to further detain the youth.

(2) In regard to the conditional release revocation hearing, the youth is entitled to:

(a) receive written notice of the alleged violation of the terms and conditions of the youth's conditional release;

(b) receive evidence of the alleged violation;

(c) an opportunity to be heard in person or by interactive video transmission and to present witnesses and evidence;

(d) cross-examine witnesses, unless the court finds good cause for not allowing confrontation; and

(e) be represented by counsel.

(3) After the revocation hearing, if the court finds by a preponderance of the evidence presented that the youth has violated the terms and conditions of the youth's conditional release, the court may revoke the youth's conditional release and return the youth to a state youth correctional facility or make any other judgment or disposition that could have been made under the original judgment.

Section 2. Section 10-1-1402, MCA, is amended to read:

"10-1-1402. Legislative intent. It is the intent of the legislature that:

(1) the youth challenge program assist youth between 16 and 18 years of age to achieve a quality education and develop the skills and abilities necessary to become productive citizens;

(2) the youth challenge program focus on the physical, emotional, and educational needs of youth within a voluntary, highly structured environment;

(3) eligible participants be drug-free, not be on ~~parole~~ *conditional release* or probation for other than juvenile-status offenses, not have been indicted for or charged with an offense other than a juvenile-status offense, and not have been convicted of a felony or capital offense;

(4) recruiting for the youth challenge program treat all eligible youth equitably and seek representation from different genders, ethnic groups, and geographic locations;

(5) the youth challenge program conduct structured training consisting of a residential phase and a postresidential phase with curriculum that focuses on academic excellence, including the successful completion of the tests for a high school equivalency diploma, and on physical fitness, job skills, service to the community, health and hygiene, responsible citizenship, leadership, how to follow directions, and life-coping skills; and

(6) the youth challenge program be conducted in cooperation with other community programs for at-risk youth."

Section 3. Section 20-9-327, MCA, is amended to read:

"20-9-327. Quality educator payment. (1) (a) The state shall provide a quality educator payment to:

(i) public school districts, as defined in 20-6-101 and 20-6-701;

(ii) special education cooperatives, as described in 20-7-451;

(iii) the Montana school for the deaf and blind, as described in 20-8-101;

- (iv) state youth correctional facilities, as defined in 41-5-103; and
- (v) the Montana youth challenge program.

(b) A special education cooperative that has not met the requirements of 20-7-454 may not be funded under the provisions of this section except by approval of the superintendent of public instruction.

(2) (a) The quality educator payment for special education cooperatives must be distributed directly to those entities by the superintendent of public instruction.

(b) The quality educator payment for the Montana school for the deaf and blind must be distributed to the Montana school for the deaf and blind.

(c) The quality educator payment for Pine Hills ~~and Riverside youth correctional facilities~~ *youth correctional facility and the facility under contract with the department of corrections for female youth* must be distributed to those facilities by the department of corrections.

(d) The quality educator payment for the Montana youth challenge program must be distributed to that program by the department of military affairs.

(3) The quality educator payment is calculated as provided in 20-9-306, using the number of full-time equivalent educators, as reported to the superintendent of public instruction for accreditation purposes in the previous school year, each of whom:

(a) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (1) of this section in a position that requires an educator license in accordance with the administrative rules adopted by the board of public education;

(b) (i) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-22-301, 37-23-201, 37-24-301, or 37-25-302; and

(ii) is employed by an entity listed in subsection (1) to provide services to students; or

(c) (i) holds an American Indian language and culture specialist license; and

(ii) is employed by an entity listed in subsection (1) to provide services to students in an Indian language immersion program pursuant to Title 20, chapter 7, part 14. (Subsection (3)(c) terminates June 30, 2019--sec. 10, Ch. 442, L. 2015.)"

Section 4. Section 41-5-103, MCA, is amended to read:

"41-5-103. Definitions. As used in the Montana Youth Court Act, unless the context requires otherwise, the following definitions apply:

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Agency" means any entity of state or local government authorized by law to be responsible for the care or rehabilitation of youth.

(3) "Assessment officer" means a person who is authorized by the court to provide initial intake and evaluation for a youth who appears to be in need of intervention or an alleged delinquent youth.

(4) "Commit" means to transfer legal custody of a youth to the department or to the youth court.

(5) "Conditional release" means the release of a youth from a state youth correctional facility subject to the terms and conditions of the conditional release agreement provided for in 52-5-126.

~~(5)~~(6) "Correctional facility" means a public or private, physically secure residential facility under contract with the department and operated solely for the purpose of housing adjudicated delinquent youth.

~~(6)~~(7) "Cost containment pool" means an account from which funds are allocated by the office of court administrator under 41-5-132 to a judicial

district that exceeds its annual allocation for juvenile out-of-home placements, programs, and services or to the department for costs incurred under 41-5-1504.

~~(7)~~(8) “Cost containment review panel” means the panel established in 41-5-131.

~~(8)~~(9) “Court”, when used without further qualification, means the youth court of the district court.

(9)(10) “Criminally convicted youth” means a youth who has been convicted in a district court pursuant to 41-5-206.

~~(10)~~(11) (a) “Custodian” means a person, other than a parent or guardian, to whom legal custody of the youth has been given.

(b) The term does not include a person who has only physical custody.

~~(11)~~(12) “Delinquent youth” means a youth who is adjudicated under formal proceedings under the Montana Youth Court Act as a youth:

(a) who has committed an offense that, if committed by an adult, would constitute a criminal offense; ~~or~~

(b) who has been placed on probation as a delinquent youth and who has violated any condition of probation; *or*

(c) *who has violated the terms and conditions of the youth’s conditional release agreement.*

~~(12)~~(13) “Department” means the department of corrections provided for in 2-15-2301.

~~(13)~~(14) (a) “Department records” means information or data, either in written or electronic form, maintained by the department pertaining to youth who are committed under 41-5-1513(1)(b) ~~or who are under parole supervision.~~

(b) Department records do not include information provided by the department to the department of public health and human services’ management information system or information maintained by the youth court through the office of court administrator.

~~(14)~~(15) “Detention” means the holding or temporary placement of a youth in the youth’s home under home arrest or in a facility other than the youth’s own home for:

(a) the purpose of ensuring the continued custody of the youth at any time after the youth is taken into custody and before final disposition of the youth’s case;

(b) contempt of court or violation of a valid court order; *or*

(c) ~~violation of a youth parole agreement~~ *the terms and conditions of the youth’s conditional release agreement.*

(15)(16) “Detention facility” means a physically restricting facility designed to prevent a youth from departing at will. The term includes a youth detention facility, short-term detention center, and regional detention facility.

~~(16)~~(17) “Emergency placement” means placement of a youth in a youth care facility for less than 45 days to protect the youth when there is no alternative placement available.

~~(17)~~(18) “Family” means the parents, guardians, legal custodians, and siblings or other youth with whom a youth ordinarily lives.

~~(18)~~(19) “Final disposition” means the implementation of a court order for the disposition or placement of a youth as provided in 41-5-1422, 41-5-1503, 41-5-1504, 41-5-1512, 41-5-1513, and 41-5-1522 through 41-5-1525.

~~(19)~~(20) (a) “Formal youth court records” means information or data, either in written or electronic form, on file with the clerk of district court pertaining to a youth under the jurisdiction of the youth court and includes petitions, motions, other filed pleadings, court findings, verdicts, orders and decrees, and predispositional studies.

(b) The term does not include information provided by the youth court to the department of public health and human services' management information system.

(20)(21) "Foster home" means a private residence licensed by the department of public health and human services for placement of a youth.

(21)(22) "Guardian" means an adult:

(a) who is responsible for a youth and has the reciprocal rights, duties, and responsibilities with the youth; and

(b) whose status is created and defined by law.

(22)(23) "Habitual truancy" means recorded unexcused absences of 9 or more days or 54 or more parts of a day, whichever is less, in 1 school year.

(23)(24) (a) "Holdover" means a room, office, building, or other place approved by the board of crime control for the temporary detention and supervision of youth in a physically unrestricting setting for a period not to exceed 24 hours while the youth is awaiting a probable cause hearing, release, or transfer to an appropriate detention or shelter care facility.

(b) The term does not include a jail.

(24)(25) (a) "Informal youth court records" means information or data, either in written or electronic form, maintained by youth court probation offices pertaining to a youth under the jurisdiction of the youth court and includes reports of preliminary inquiries, youth assessment materials, medical records, school records, and supervision records of probationers.

(b) The term does not include information provided by the youth court to the department of public health and human services' management information system.

(25)(26) (a) "Jail" means a facility used for the confinement of adults accused or convicted of criminal offenses. The term includes a lockup or other facility used primarily for the temporary confinement of adults after arrest.

(b) The term does not include a ~~colocated~~ *collocated* juvenile detention facility that complies with 28 CFR, part 31.

(26)(27) "Judge", when used without further qualification, means the judge of the youth court.

(27)(28) "Juvenile home arrest officer" means a court-appointed officer administering or supervising juveniles in a program for home arrest, as provided for in Title 46, chapter 18, part 10.

(28)(29) "Law enforcement records" means information or data, either in written or electronic form, maintained by a law enforcement agency, as defined in 7-32-201, pertaining to a youth covered by this chapter.

(29)(30) (a) "Legal custody" means the legal status created by order of a court of competent jurisdiction that gives a person the right and duty to:

(i) have physical custody of the youth;

(ii) determine with whom the youth shall live and for what period;

(iii) protect, train, and discipline the youth; and

(iv) provide the youth with food, shelter, education, and ordinary medical care.

(b) An individual granted legal custody of a youth shall personally exercise the individual's rights and duties as guardian unless otherwise authorized by the court entering the order.

(30)(31) "Necessary parties" includes the youth and the youth's parents, guardian, custodian, or spouse.

(31)(32) (a) "Out-of-home placement" means placement of a youth in a program, facility, or home, other than a custodial parent's home, for purposes other than preadjudicatory detention.

(b) The term does not include shelter care or emergency placement of less than 45 days.

~~(32)~~(33) (a) "Parent" means the natural or adoptive parent.

(b) The term does not include:

(i) a person whose parental rights have been judicially terminated; or

(ii) the putative father of an illegitimate youth unless the putative father's paternity is established by an adjudication or by other clear and convincing proof.

~~(33)~~(34) "Probable cause hearing" means the hearing provided for in 41-5-332.

~~(34)~~(35) "Regional detention facility" means a youth detention facility established and maintained by two or more counties, as authorized in 41-5-1804.

~~(35)~~(36) "Restitution" means payments in cash to the victim or with services to the victim or the general community when these payments are made pursuant to a consent adjustment, consent decree, or other youth court order.

~~(36)~~(37) "Running away from home" means that a youth has been reported to have run away from home without the consent of a parent or guardian or a custodian having legal custody of the youth.

~~(37)~~(38) "Secure detention facility" means a public or private facility that:

(a) is used for the temporary placement of youth or individuals accused or convicted of criminal offenses or as a sanction for contempt of court, violation of ~~a parole agreement~~ *the terms and conditions of the youth's conditional release agreement*, or violation of a valid court order; and

(b) is designed to physically restrict the movements and activities of youth or other individuals held in lawful custody of the facility.

~~(38)~~(39) "Serious juvenile offender" means a youth who has committed an offense that would be considered a felony offense if committed by an adult and that is an offense against a person, an offense against property, or an offense involving dangerous drugs.

~~(39)~~(40) "Shelter care" means the temporary substitute care of youth in physically unrestricting facilities.

~~(40)~~(41) "Shelter care facility" means a facility used for the shelter care of youth. The term is limited to the facilities enumerated in 41-5-347.

~~(41)~~(42) "Short-term detention center" means a detention facility licensed by the department for the temporary placement or care of youth, for a period not to exceed 10 days excluding weekends and legal holidays, pending a probable cause hearing, release, or transfer of the youth to an appropriate detention facility, youth assessment center, or shelter care facility.

~~(42)~~(43) "State youth correctional facility" means the Pine Hills youth correctional facility in Miles City or the ~~Riverside youth correctional facility in Boulder~~ *correctional facility under contract with the department for female youth*.

~~(43)~~(44) "Substitute care" means full-time care of youth in a residential setting for the purpose of providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment to youth who are removed from or are without the care and supervision of their parents or guardians.

~~(44)~~(45) "Victim" means:

(a) a person who suffers property, physical, or emotional injury as a result of an offense committed by a youth that would be a criminal offense if committed by an adult;

(b) an adult relative of the victim, as defined in subsection ~~(44)~~(a) ~~(45)~~(a), if the victim is a minor; and

(c) an adult relative of a homicide victim.

(45)(46) "Youth" means an individual who is less than 18 years of age without regard to sex or emancipation.

(46)(47) "Youth assessment" means a multidisciplinary assessment of a youth as provided in 41-5-1203.

(47)(48) "Youth assessment center" means a staff-secured location that is licensed by the department of public health and human services to hold a youth for up to 10 days for the purpose of providing an immediate and comprehensive community-based youth assessment to assist the youth and the youth's family in addressing the youth's behavior.

(48)(49) "Youth care facility" has the meaning provided in 52-2-602.

(49)(50) "Youth court" means the court established pursuant to this chapter to hear all proceedings in which a youth is alleged to be a delinquent youth, or a youth in need of intervention, *or a youth alleged to have violated the terms and conditions of the youth's conditional release agreement* and includes the youth court judge, juvenile probation officers, and assessment officers.

(50)(51) "Youth detention facility" means a secure detention facility licensed by the department for the temporary substitute care of youth that is:

(a) (i) operated, administered, and staffed separately and independently of a jail; or

(ii) a ~~colocated~~ *collocated* secure detention facility that complies with 28 CFR, part 31; and

(b) used exclusively for the lawful detention of alleged or adjudicated delinquent youth or as a sanction for contempt of court, violation of ~~a parole agreement~~ *the terms and conditions of the youth's conditional release agreement*, or violation of a valid court order.

(51)(52) "Youth in need of intervention" means a youth who is adjudicated as a youth and who:

(a) commits an offense prohibited by law that if committed by an adult would not constitute a criminal offense, including but not limited to a youth who:

(i) violates any Montana municipal or state law regarding alcoholic beverages; or

(ii) continues to exhibit behavior, including running away from home or habitual truancy, beyond the control of the youth's parents, foster parents, physical custodian, or guardian despite the attempt of the youth's parents, foster parents, physical custodian, or guardian to exert all reasonable efforts to mediate, resolve, or control the youth's behavior; or

(b) has committed any of the acts of a delinquent youth but whom the youth court, in its discretion, chooses to regard as a youth in need of intervention."

Section 5. Section 41-5-121, MCA, is amended to read:

"41-5-121. Youth placement committees – composition. (1) In each judicial district, the youth court ~~and the department shall~~ *may* establish a youth placement committee for the purposes of:

(a) recommending an appropriate placement of a youth committed to the youth court under 41-5-1512 or 41-5-1513 or committed to the department under 41-5-1513; or

(b) recommending available community services or alternative placements whenever a change is required in the placement of a youth who is currently in the legal custody of the youth court under 41-5-1512 or 41-5-1513 *or a youth on conditional release* ~~the department under 41-5-1513. However, the committee may not substitute its judgment for that of the superintendent of a state youth correctional facility regarding the discharge of a youth from the facility or the placement of a youth on parole under the department's jurisdiction.~~

(2) (a) The committee consists of not less than five members and must include persons who are knowledgeable about the youth, treatment and placement options, and other resources appropriate to address the needs of the youth.

(b) The committee ~~must~~ *may* include:

(i) a ~~juvenile parole officer employed by~~ *representative of* the department;
(ii) a representative of the department of public health and human services;
(iii) the chief juvenile probation officer or the chief juvenile probation officer's designee. The officer or the officer's designee is the presiding officer of the committee.

(iv) a mental health professional; ~~and~~

(v) if an Indian youth is involved, a person, preferably an Indian, knowledgeable about Indian culture and Indian family matters;;

~~(c) The committee may include:~~

~~(i)(vi)~~ a representative of a school district located within the boundaries of the judicial district who has knowledge of and experience with youth;

~~(ii)(vii)~~ the youth's parent or guardian;

~~(iii)(viii)~~ a youth services provider; and

~~(iv)(ix)~~ the youth's juvenile probation officer.

(3) The ~~youth court judge~~ *chief juvenile probation officer* shall appoint all members of the youth placement committee ~~except the juvenile parole officer.~~ The director of the department shall appoint the juvenile parole officer and shall, when making the appointment, take into consideration:

~~(a) the juvenile parole officer's qualifications;~~

~~(b) the costs involved in the juvenile parole officer's attendance at youth placement committee meetings; and~~

~~(c) the location of the juvenile parole officer's home in relation to the location of the youth placement committee.~~

(4) Committee members serve without compensation.

(5) The committee may be convened ~~by request of the department to the presiding officer or~~ by the chief juvenile probation officer.

(6) If a representative of the school district within the boundaries of which the youth is recommended to be placed and will be attending school is not included on the committee, the ~~person who convened the committee~~ *chief juvenile probation officer* shall inform the school district of the final placement decision for the youth.

~~(7) The office of court administrator may not charge expenditures to the judicial district allocations established pursuant to 41-5-130 unless the youth court has established a youth placement committee as provided in this section."~~

Section 6. Section 41-5-124, MCA, is amended to read:

"41-5-124. Temporary and emergency placements -- limit. A temporary placement of a youth in a shelter care facility for less than 45 days or an emergency placement of a youth in a youth care facility is exempt from review by the appropriate youth placement committee. If a temporary or emergency placement of a youth continues for 45 or more days, the youth court shall refer the placement of the youth to the appropriate youth placement committee for review *if a committee has been established as provided for in 41-5-121.* The committee shall make a recommendation for placement to the youth court."

Section 7. Section 41-5-125, MCA, is amended to read:

"41-5-125. Confidentiality of youth placement committee meetings and records. (1) Meetings of a youth placement committee are closed to the public to protect a youth's right to individual privacy.

(2) Information presented to the committee about a youth and committee records are confidential and subject to confidentiality requirements established by rule by the department *the court.*"

Section 8. Section 41-5-130, MCA, is amended to read:

"41-5-130. Office of court administrator to administer juvenile placement funds – allocations – deposit of unexpended funds.

(1) The office of court administrator shall administer juvenile placement funds appropriated to the judicial branch by the legislature in accordance with this chapter.

~~(2) For each fiscal year, the department shall administer appropriated juvenile placement funds for juvenile parole out-of-home placements, programs, and services.~~

~~(3)~~(2) For each fiscal year, the office of court administrator shall allocate funds to the cost containment pool under 41-5-132 and allocate the remaining appropriated juvenile placement funds to each judicial district according to a formula recommended by the cost containment review panel provided for in 41-5-131 and adopted by the office of court administrator.

~~(4)~~(3) A judicial district may expend funds from its annual allocation for out-of-home placements or for other programs or services intended to reduce or prevent juvenile delinquency subject to the provisions of subsection ~~(5)~~ (4).

~~(5)~~(4) (a) Except as provided in subsection ~~(5)(b)~~ (4)(b), a judicial district shall reserve at least 50% of its annual allocation for out-of-home placements and the remainder for programs or services.

(b) A judicial district may reserve more than 50% of its annual allocation for programs or services if:

(i) the programs or services have, based on demonstrated outcomes, reduced the number of placements in correctional facilities or higher-cost residential placements; and

(ii) the judicial district would not require funding from the cost containment pool, provided for in 41-5-132, in the same fiscal year in which the annual allocation is made under this subsection ~~(5)(b)~~ (4)(b).

~~(6)~~(5) At the end of each fiscal year, after all valid obligations have been paid or encumbered for payment, the office of court administrator shall deposit any unexpended funds from the judicial districts' annual allocations provided for in this section into the youth court intervention and prevention account provided for in 41-5-2011."

Section 9. Section 41-5-131, MCA, is amended to read:

"41-5-131. Cost containment review panel – duties. (1) The supreme court shall establish a cost containment review panel to advise the office of court administrator in administering the cost containment pool and youth court intervention and prevention account.

(2) (a) The members of the cost containment review panel must be appointed as follows:

~~(i) three members appointed by the director of the department;~~

~~(ii)~~(i) ~~three~~ four members appointed by the chief justice of the supreme court; and

~~(iii)~~(ii) one member who is a professional working in the field of children's mental health appointed by the director of the department of public health and human services.

(b) Each appointing authority under subsection (2)(a) shall appoint one person to serve as the alternate for a member appointed by the authority who is unable to participate in a cost containment review panel meeting.

(3) Recommendations of the cost containment review panel must be made by majority vote of the members of the cost containment review panel or their alternates.

(4) The cost containment review panel shall:

(a) recommend a formula for the annual allocation to each judicial district as provided in 41-5-130;

(b) recommend an amount to be allocated to the cost containment pool as provided in 41-5-132;

(c) review requests by judicial districts for allocations from the cost containment pool and recommend to the office of court administrator whether each request should be approved as provided in 41-5-132;

(d) approve requests by the department for reimbursement from the cost containment pool as provided in 41-5-132;

(e) provide recommendations to the department regarding placement for youth as provided in 41-5-1504;

(f) provide recommendations on the evaluation of out-of-home placements, programs, and services as provided in 41-5-2003; and

(g) review plans submitted under 41-5-2012 and recommend to the office of court administrator whether each plan should be approved.”

Section 10. Section 41-5-132, MCA, is amended to read:

“41-5-132. Cost containment pool – allocation of appropriated funds – allocation from pool – deposit of unexpended funds. (1) (a) The office of court administrator shall establish a cost containment pool. After considering the cost containment review panel’s recommendation as provided for in subsection (1)(b), the office of court administrator shall allocate to the cost containment pool at the beginning of each fiscal year not less than \$1 million from the funds appropriated for juvenile placements.

(b) The cost containment review panel shall submit to the office of court administrator a recommended amount to be allocated to the cost containment pool at least 1 month prior to the start of each fiscal year. The cost containment review panel shall establish a methodology for determining the recommended amount to be allocated to the cost containment pool.

(2) Before a judicial district exceeds its annual allocation under 41-5-130 for juvenile out-of-home placements, programs, and services, the judicial district shall submit to the cost containment review panel a request for an allocation from the cost containment pool. After reviewing the request, the cost containment review panel shall recommend to the office of court administrator whether an allocation from the cost containment pool should be made to the judicial district. After considering the cost containment review panel’s recommendation, the office of court administrator may approve the judicial district’s request and disburse funds from the pool for expenditure by the judicial district.

(3) (a) According to criteria and procedures established by the cost containment review panel, the cost containment review panel may authorize an allocation from the cost containment pool to the department for a request submitted under subsection (3)(b).

(b) The department may request ~~at the end of the fiscal year~~ that the cost containment review panel reimburse the department from the cost containment pool for costs incurred under 41-5-1504(3) for placing a youth found to be suffering from a mental disorder, including costs for transporting the youth. Before requesting reimbursement, the department shall expend its ~~budgets for placements and services to youth and~~ any parental contributions *made on behalf of the youth, or federal funds; available for the youth’s care*

for which the department has spending authority, ~~or and~~ private insurance payments received for *the youth's* treatment.

(4) In addition to any disbursement made by the office of court administrator under subsection (2) or (3), the office may expend funds from the cost containment pool to:

(a) reimburse cost containment review panel members or alternates for travel expenses, as provided in 2-18-501 through 2-18-503, and to pay the actual costs incurred in conducting a cost containment review panel meeting, excluding salary and benefits for employees providing support services to the cost containment review panel; and

(b) conduct an evaluation of out-of-home placements, programs, and services as provided in 41-5-2003. The office of court administrator may not expend more than \$50,000 each year from the cost containment pool to conduct the evaluation.

(5) The office of court administrator shall deposit any amount remaining in the cost containment pool at the end of each fiscal year into the youth court intervention and prevention account provided for in 41-5-2011.”

Section 11. Section 41-5-215, MCA, is amended to read:

“41-5-215. Youth court and department records – notification of school. (1) Formal youth court records, including reports of preliminary inquiries, petitions, motions, other filed pleadings, court findings, verdicts, and orders and decrees on file with the clerk of court, are public records and are open to public inspection until the records are sealed under 41-5-216.

(2) Social, medical, and psychological records, youth assessment materials, predispositional studies, and supervision records of probationers are open only to the following:

(a) the youth court and its professional staff;

(b) representatives of any agency providing supervision and having legal custody of a youth;

(c) any other person, by order of the court, having a legitimate interest in the case or in the work of the court;

(d) any court and its probation and other professional staff or the attorney for a convicted party who had been a party to proceedings in the youth court when considering the sentence to be imposed upon the party;

(e) the county attorney;

(f) the youth who is the subject of the report or record, after emancipation or reaching the age of majority;

(g) a member of a county interdisciplinary child information and school safety team formed under 52-2-211 who is not listed in this subsection (2);

(h) members of a local interagency staffing group provided for in 52-2-203;

(i) persons allowed access under 42-3-203; **and**

(j) persons conducting evaluations as required in 41-5-2003; *and*

(k) the attorney, guardian ad litem, or child advocate for the youth who is the subject of the report or record.

(3) (a) Notwithstanding the requirements of 20-5-321(1)(d) or (1)(e), subject to the provisions of subsection (3)(b) of this section, and according to the guidelines in subsection (3)(f) of this section, the chief probation officer or other designee from the district that has jurisdiction over the matter ~~or the department of corrections for youth under the supervision of the department~~ shall notify the school district that the youth presently attends or the school district that the youth has applied to attend of a youth's past or current drug use or criminal activity if after an investigation has been completed:

(i) a petition has been filed with the youth court or charges are filed in district court alleging a violation of any section in Title 45, chapter 5; or

(ii) the youth has admitted the allegation and the acts involve any offense in which another youth was an alleged victim and the admitted activity has a bearing on the safety of children.

(b) Notification under subsection (3)(a) may not be given for status offenses.

(c) Notification under subsection (3)(a) terminates upon the end of the youth court's supervision ~~or the discharge of the youth by the department of corrections.~~

(d) A school district may not refuse to accept the student if refusal violates the federal Individuals With Disabilities Education Act or the federal Americans With Disabilities Act of 1990.

(e) The administrative officials of the school district may enforce school disciplinary procedures that existed at the time of the admission or adjudication. The information may not be further disclosed and may not be made part of the student's permanent records.

(f) Notification to the school district under subsection (3)(a) must be provided to:

(i) the school district superintendent or the superintendent's designee in districts that employ a superintendent;

(ii) the building principal or the principal's designee in school districts where the building principal is the only administrator; or

(iii) the county superintendent in school districts that do not employ an administrator.

(4) In all cases, a victim is entitled to all information concerning the identity and disposition of the youth, as provided in 41-5-1416.

(5) The school district may disclose, without consent, personally identifiable information from an education record of a pupil to the youth court and law enforcement authorities pertaining to violations of the Montana Youth Court Act or criminal laws by the pupil. The youth court or law enforcement authorities receiving the information shall certify in writing to the school district that the information will not be disclosed to any other party except as provided under state law without the prior consent of the parent or guardian of the pupil.

(6) Any part of records information secured from records listed in subsection (2), when presented to and used by the court in a proceeding under this chapter, must also be made available to the counsel for the parties to the proceedings."

Section 12. Section 41-5-332, MCA, is amended to read:

"41-5-332. Custody – hearing for probable cause. (1) When a youth is taken into custody ~~for questioning~~, a hearing to determine whether there is probable cause to believe the youth is a delinquent youth or a youth in need of intervention must be held within 24 hours, excluding weekends and legal holidays. A hearing is not required if the youth is released prior to the time of the required hearing.

(2) When a youth is taken into custody for a violation of placement under a home arrest program, a hearing to determine whether a violation occurred must be held within 24 hours, excluding weekends and holidays.

(3) The probable cause hearing required under subsection (1) may be held in person or by videoconference by the youth court, a justice of the peace, a municipal or city judge, or a magistrate having jurisdiction in the case as provided in 41-5-203. If the probable cause hearing is held by a justice of the peace, a municipal or city judge, or a magistrate, a record of the hearing must be made by a court reporter or by a tape recording of the hearing or by an audio-video tape if the hearing is held by videoconference.

(4) A probable cause hearing may be conducted by telephone if other means of conducting the hearing are impractical. All written orders and findings of

the court in a hearing conducted by telephone must bear the name of the judge or magistrate presiding in the case and the hour and date the order or findings were issued.

(5) A hearing is ~~not~~ required for a youth placed in detention for an alleged ~~parole~~ violation of the terms and conditions of the youth's conditional release agreement."

Section 13. Section 41-5-341, MCA, is amended to read:

"41-5-341. Criteria for placement of youth in secure detention facilities. A youth may be placed in a secure detention facility only if the youth:

(1) has allegedly committed an act that if committed by an adult would constitute a criminal offense and the alleged offense is one specified in 41-5-206;

(2) is alleged to be a delinquent youth and:

(a) has escaped from a correctional facility or secure detention facility;

(b) has violated a valid court order or ~~a parole agreement~~ the terms and conditions of the youth's conditional release agreement;

(c) the youth's detention is required to protect persons or property;

(d) the youth has pending court or administrative action or is awaiting a transfer to another jurisdiction and may abscond or be removed from the jurisdiction of the court;

(e) there are not adequate assurances that the youth will appear for court when required; or

(f) the youth meets additional criteria for secure detention established by the youth court in the judicial district that has current jurisdiction over the youth; or

(3) has been adjudicated delinquent and is awaiting final disposition of the youth's case."

Section 14. Section 41-5-1304, MCA, is amended to read:

"41-5-1304. Disposition permitted under consent adjustment.

(1) The following dispositions may be imposed by consent adjustment:

(a) probation;

(b) placement of the youth in substitute care in a youth care facility, as defined in 52-2-602 and pursuant to a recommendation made under 41-5-121;

(c) placement of the youth with a private agency responsible for the care and rehabilitation of the youth pursuant to a recommendation made under 41-5-121;

(d) restitution, as provided in 41-5-1521, upon approval of the youth court judge;

(e) placement of the youth under home arrest as provided in Title 46, chapter 18, part 10;

(f) confiscation of the youth's driver's license, if the youth has one, by the juvenile probation officer for a specified period of time, not to exceed 90 days. The juvenile probation officer shall notify the department of justice of the confiscation and its duration. The department of justice may not enter the confiscation on the youth's driving record. The juvenile probation officer shall notify the department of justice when the confiscated driver's license has been returned to the youth. A youth's driver's license may be confiscated under this subsection more than once. The juvenile probation officer may, in the juvenile probation officer's discretion and with the concurrence of a parent or guardian, return a youth's confiscated driver's license before the termination of the time period for which it had been confiscated. The confiscation may not be used by an insurer as a factor in determining the premium or part of a premium to be paid for motor vehicle insurance covering the youth or a vehicle or vehicles

driven by the youth, nor may it be used as grounds for denying coverage for an accident or other occurrence under an existing policy.

(g) a requirement that the youth receive counseling services;

(h) placement in a youth assessment center for up to 10 days;

(i) placement of the youth in detention for up to 3 days on a space-available basis at the county's expense, which is not reimbursable under part 19 of this chapter;

(j) a requirement that the youth perform community service;

(k) a requirement that the youth participate in victim-offender mediation;

(l) an agreement that the youth pay a contribution covering all or a part of the costs for the adjudication, disposition, attorney fees for the costs of prosecuting or defending the youth, costs of detention, supervision, care, custody, and treatment of the youth, including the costs of counseling;

(m) an agreement that the youth pay a contribution covering all or a part of the costs of a victim's counseling or restitution for damages that result from the offense for which the youth is disposed;

(n) any other condition ordered by the court to accomplish the goals of the consent adjustment, including but not limited to mediation or youth assessment. Before ordering youth assessment, the court shall provide the family with an estimate of the cost of youth assessment, and the court shall take into consideration the financial resources of the family before ordering parental or guardian contribution for the costs of youth assessment.

~~(2) If the youth violates a parole agreement as provided for in 52-5-126, the youth must be returned to the court for further disposition. A youth may not be placed in a state youth correctional facility under a consent adjustment.~~

(3)(2) If the youth is placed in substitute care, an assessment placement, or detention requiring payment by any state department or local government agency, the court shall examine the financial ability of the youth's parents or guardians to pay a contribution covering all or part of the costs for the adjudication, disposition, supervision, care, placement, and treatment of the youth, including the costs of necessary medical, dental, and other health care."

Section 15. Section 41-5-1432, MCA, is amended to read:

"41-5-1432. Enforcement of restitution orders. If the court orders payment of restitution and the youth fails to pay the restitution in accordance with the payment schedule or structure established by the court or juvenile probation officer, the youth's juvenile probation officer may, on the officer's own motion or at the request of the victim, ~~file a petition for violation of probation or ask the court to hold a hearing to determine whether the conditions of probation or commitment to the department should be changed.~~ The juvenile probation officer shall ask for a hearing if the restitution has not been paid prior to 60 days before the term of probation ~~or commitment to the department~~ expires. The court shall schedule and hold the hearing before the youth's term of probation ~~or commitment to the department~~ expires."

Section 16. Section 41-5-1512, MCA, is amended to read:

"41-5-1512. Disposition of youth in need of intervention or youth who violate consent adjustments. (1) If a youth is found to be a youth in need of intervention or to have violated a consent adjustment, the youth court may enter its judgment making one or more of the following dispositions:

(a) place the youth on probation. The youth court shall retain jurisdiction in a disposition under this subsection.

(b) place the youth in a residence that ensures that the youth is accountable, that provides for rehabilitation, and that protects the public. Before placement, the sentencing judge shall seek and consider placement recommendations from the youth placement committee *if a committee has been established as provided for in 41-5-121.*

(c) commit the youth to the youth court for the purposes of placement in a private, out-of-home facility subject to the conditions in 41-5-1522. In an order committing a youth to the youth court, the court shall determine whether continuation in the youth's own home would be contrary to the welfare of the youth and whether reasonable efforts have been made to prevent or eliminate the need for removal of the youth from the youth's home.

(d) order restitution for damages that result from the offense for which the youth is disposed by the youth or by the person who contributed to the delinquency of the youth;

(e) require the performance of community service;

(f) require the youth, the youth's parents or guardians, or the persons having legal custody of the youth to receive counseling services;

(g) require the medical and psychological evaluation of the youth, the youth's parents or guardians, or the persons having legal custody of the youth;

(h) require the parents, guardians, or other persons having legal custody of the youth to furnish services the court may designate;

(i) order further care, treatment, evaluation, or relief that the court considers beneficial to the youth and the community;

(j) subject to the provisions of 41-5-1504, commit the youth to a mental health facility if, based on the testimony of a professional person as defined in 53-21-102, the court finds that the youth is found to be suffering from a mental disorder, as defined in 53-21-102, and meets the criteria in 53-21-126(1);

(k) place the youth under home arrest as provided in Title 46, chapter 18, part 10;

(l) order confiscation of the youth's driver's license, if the youth has one, by the juvenile probation officer for a specified period of time, not to exceed 90 days. The juvenile probation officer shall notify the department of justice of the confiscation and its duration. The department of justice may not enter the confiscation on the youth's driving record. The juvenile probation officer shall notify the department of justice when the confiscated driver's license has been returned to the youth. A youth's driver's license may be confiscated under this subsection more than once. The juvenile probation officer may, in the juvenile probation officer's discretion and with the concurrence of a parent or guardian, return a youth's confiscated driver's license before the termination of the time period for which it had been confiscated. The confiscation may not be used by an insurer as a factor in determining the premium or part of a premium to be paid for motor vehicle insurance covering the youth or a vehicle or vehicles driven by the youth and may not be used as grounds for denying coverage for an accident or other occurrence under an existing policy.

(m) order the youth to pay a contribution covering all or a part of the costs for adjudication, disposition, and attorney fees for the costs of prosecuting or defending the youth and costs of detention, supervision, care, custody, and treatment of the youth, including the costs of counseling;

(n) order the youth to pay a contribution covering all or a part of the costs of a victim's counseling;

(o) defer imposition of sentence for up to 45 days for a placement evaluation at a suitable program or facility with the following conditions:

(i) The court may not order placement for evaluation at a youth correctional facility of a youth who has committed an offense that would not be a criminal offense if committed by an adult or a youth who has violated a consent adjustment.

(ii) The placement for evaluation must be on a space-available basis. Except as provided in subsection (1)(o)(iii), the court shall pay the cost of the

placement for evaluation from its judicial district's allocation provided for in 41-5-130 or 41-5-2012.

(iii) The court may require the youth's parents or guardians to pay a contribution covering all or a part of the costs of the evaluation if the court determines after an examination of financial ability that the parents or guardians are able to pay the contribution. Any remaining unpaid costs of evaluation are the financial responsibility of the judicial district of the court that ordered the evaluation.

(p) order placement of a youth in a youth assessment center for up to 10 days; or

(q) order the youth to participate in mediation that is appropriate for the offense committed.

(2) The court may not order a local government entity to pay for care, treatment, intervention, or placement. A court may not order a local government entity to pay for evaluation and in-state transportation of a youth.

(3) The court may not order a state government entity to pay for care, treatment, intervention, placement, or evaluation that results in a deficit in the annual allocation established for that district under 41-5-130 without approval from the office of court administrator."

Section 17. Section 41-5-1513, MCA, is amended to read:

"41-5-1513. Disposition – delinquent youth – restrictions. (1) If a youth is found to be a delinquent youth, the youth court may enter its judgment making one or more of the following dispositions:

(a) any one or more of the dispositions provided in 41-5-1512;

(b) subject to 41-5-1504, 41-5-1512(1)(o)(i), and 41-5-1522, commit the youth to the department for placement in a state youth correctional facility *or other appropriate program as determined by the department* and recommend to the department that the youth not be released until the youth reaches 18 years of age. The provisions of 41-5-355 relating to alternative placements apply to placements under this subsection (1)(b). The court may not place a youth adjudicated to be a delinquent youth in a state youth correctional facility for an act that would be a misdemeanor if committed by an adult unless:

(i) the youth committed four or more misdemeanors in the prior 12 months;

(ii) a psychiatrist or a psychologist licensed by the state or a licensed clinical professional counselor or a licensed clinical social worker has evaluated the youth and recommends placement in a state youth correctional facility; and

(iii) the court finds that the youth will present a danger to the public if the youth is not placed in a state youth correctional facility.

(c) subject to the provisions of subsection (6), require a youth found to be a delinquent youth, as the result of the commission of an offense that would be a violent offense, as defined in 46-23-502, if committed by an adult, to register and remain registered as a violent offender pursuant to Title 46, chapter 23, part 5. The youth court shall retain jurisdiction in a disposition under this subsection to ensure registration compliance.

(d) in the case of a delinquent youth who has been adjudicated for a sexual offense, as defined in 46-23-502, the youth is exempt from the duty to register as a sexual offender pursuant to Title 46, chapter 23, part 5, unless the court finds that:

(i) the youth has previously been found to have committed or been adjudicated for a sexual offense, as defined in 46-23-502; or

(ii) registration is necessary for protection of the public and that registration is in the public's best interest;

(e) in the case of a delinquent youth who is determined by the court to be a serious juvenile offender, the judge may specify that the youth be placed

in a state youth correctional facility, subject to the provisions of subsection (2), if the judge finds that the placement is necessary for the protection of the public. The court may order the department to notify the court within 5 working days before the proposed release of a youth from a youth correctional facility. Once a youth is committed to the department for placement in a state youth correctional facility, the department is responsible for determining an appropriate date of release or an alternative placement.

(f) impose a fine as authorized by law if the violation alleged would constitute a criminal offense if committed by an adult.

(2) If a youth has been adjudicated for a sexual offense, as defined in 46-23-502, the youth court shall:

(a) prior to disposition, order a psychosexual evaluation that must comply with the provisions of 46-18-111;

(b) designate the youth's risk level pursuant to 46-23-509;

(c) require completion of sexual offender treatment; and

(d) for a youth designated under this section and 46-23-509 as a level 3 offender, impose on the youth those restrictions required for adult offenders by 46-18-255(2) unless the youth is approved by the youth court or the department for placement in a home, program, or facility for delinquent youth. Restrictions imposed pursuant to this subsection (2)(d) terminate when the jurisdiction of the youth court terminates pursuant to 41-5-205 unless those restrictions are terminated sooner by an order of the court. However, if a youth's case is transferred to district court pursuant to 41-5-203, 41-5-206, 41-5-208, or 41-5-1605, any remaining part of the restriction imposed pursuant to this subsection (2)(d) is transferred to the jurisdiction of the district court and the supervision of the offender is transferred to the department.

(3) For a youth designated under this section and 46-23-509 as a level 3 offender, the youth court if the youth is under the youth court's jurisdiction or the department if the youth is under the department's jurisdiction shall notify in writing the superintendent of the school district in which the youth is enrolled of the adjudication, any terms of probation or *parole conditional release*, and the facts of the offense for which the youth was adjudicated, except the name of the victim, and provide a copy of the court's disposition order to the superintendent.

(4) The court may not order a local government entity to pay for care, treatment, intervention, or placement. A court may not order a local government entity to pay for evaluation and in-state transportation of a youth, except as provided in 52-5-109.

(5) The court may not order a state government entity to pay for care, treatment, intervention, placement, or evaluation that results in a deficit in the annual allocation established for that district under 41-5-130 without approval from the office of court administrator.

(6) The duration of registration for a youth who is required to register as a sexual or violent offender must be as provided in 46-23-506, except that the court may, based on specific findings of fact, order a lesser duration of registration."

Section 18. Section 41-5-1522, MCA, is amended to read:

"41-5-1522. Commitment to department -- restrictions on placement. When a youth is committed to the department, the department shall determine the appropriate placement and rehabilitation program for the youth *while the youth is in a correctional facility or other program operated by or under contract with the department* after considering the recommendations made by the youth placement committee *if a committee has been established as provided for in 41-5-121*. Placement is subject to the following limitations:

(1) A youth may not be held in a state youth correctional facility for a period of time in excess of the maximum period of imprisonment that could be imposed on an adult convicted of the offense or offenses that brought the youth under the jurisdiction of the youth court. ~~This section does not limit the power of the department to enter into a parole agreement with the youth pursuant to 52-5-126.~~

(2) A youth may not be placed in or transferred to a state adult correctional facility or other facility used for the execution of sentences of adults convicted of crimes.

(3) The department may not place a youth in need of intervention, a youth adjudicated delinquent for commission of an act that would not be an offense if committed by an adult, or a youth who violates a consent adjustment in a state youth correctional facility.”

Section 19. Section 41-5-1523, MCA, is amended to read:

“41-5-1523. Commitment to department or youth court – supervision. (1) A youth placed in a state youth correctional facility or other facility or program operated by or under contract with the department or ~~who signs a parole agreement under 52-5-126 must be supervised by is under the control of the department until the youth is discharged, transferred, or placed on conditional release by the department. Before a youth is placed on conditional release, a conditional release agreement must be developed and signed as provided in 52-5-126.~~

(2) ~~A youth who is placed on conditional release must be supervised by a juvenile probation officer of the youth court.~~

(2)(3) A youth placed in any private, out-of-home facility by the youth court must be supervised by a juvenile probation officer of the youth court.

(3)(4) Responsibilities of the juvenile probation officer relating to placement of the youth include but are not limited to:

(a) *if a youth placement committee has been established as provided for in 41-5-121*, submitting information and documentation necessary for the committee that is making the placement recommendation to determine an appropriate placement for the youth;

(b) securing approval for payment of special education costs from the youth’s school district of residence or the office of public instruction, as required in Title 20, chapter 7, part 4;

(c) submitting an application to a facility in which the youth may be placed; and

(d) managing the youth’s case while in a private, out-of-home facility and upon release until supervision is terminated by the youth court.”

Section 20. Section 41-5-1524, MCA, is amended to read:

“41-5-1524. Commitment to department – transfer of records. (1) Whenever the court commits a youth to the department, it shall transmit with the dispositional judgment copies of formal and informal youth court records, including medical reports, social history material, youth assessment material, education records, and any other clinical, predisposition, or other reports and information pertinent to the care and treatment of the youth.

(2) The youth court may share informal youth court records with the department when a youth has been committed to the department ~~of corrections for custody~~. On the youth’s 18th birthday or upon discharge, whichever is earlier, the department shall seal the entire record and is subject to 41-5-216(5).

(3) ~~If the department returns the youth back to youth court supervision on the youth’s 18th birthday as required by the court order, the~~ The department shall transmit to the supervising juvenile probation ~~office officer~~ any medical reports, youth assessment material, education records, and other clinical or

behavioral health information pertinent to the care and treatment of the youth *if the department:*

- (a) *places the youth on conditional release;*
- (b) *discharges the youth to the youth court for supervision as required by court order; or*
- (c) *transfers the youth as provided for in 41-5-208."*

Section 21. Section 41-5-1604, MCA, is amended to read:

"41-5-1604. Disposition in extended jurisdiction juvenile prosecutions. (1) (a) After designation as an extended jurisdiction juvenile prosecution, the case must proceed with an adjudicatory hearing, as provided in 41-5-1502. If a youth in an extended jurisdiction juvenile prosecution admits to or is adjudicated to have committed an offense that would be a felony if committed by an adult, except an offense punishable by death or life imprisonment or when a sentence of 100 years could be imposed, the court shall, subject to subsection (1)(b), impose a single judgment consisting of:

- (i) one or more juvenile dispositions under 41-5-1512 or 41-5-1513; and
- (ii) any sentence allowed by the statute that establishes the penalty for the offense of which the youth is convicted and that would be permissible if the offender were an adult. The execution of the sentence imposed under this subsection must be stayed on the condition that the youth not violate the provisions of the disposition order and not commit a new offense.

(b) The combined period of time of a juvenile disposition under subsection (1)(a)(i) plus an adult sentence under subsection (1)(a)(ii) may not exceed the maximum period of imprisonment that could be imposed on an adult convicted of the offense or offenses that brought the youth under the jurisdiction of the youth court. This subsection does not limit the power of the department to enter into a *parole conditional release* agreement with the youth pursuant to 52-5-126.

(2) If a youth prosecuted as an extended jurisdiction juvenile after designation by the county attorney in the delinquency petition under 41-5-1602(1)(b) admits to or is adjudicated to have committed an offense that would be a felony if committed by an adult that is not an offense described in 41-5-1602(1)(b), except an offense punishable by death or life imprisonment or when a sentence of 100 years could be imposed, the court shall adjudicate the youth delinquent and order a disposition under 41-5-1513.

(3) If a youth in an extended jurisdiction juvenile prosecution admits to or is adjudicated to have committed an offense that would not be a felony if committed by an adult, the court shall impose a disposition as provided under subsection (1)(a)."

Section 22. Section 41-5-1703, MCA, is amended to read:

"41-5-1703. Powers and duties of juvenile probation officers. (1) A juvenile probation officer shall:

- (a) perform the duties set out in 41-5-1302;
- (b) make predisposition studies and submit reports and recommendations to the court;
- (c) supervise, assist, and counsel youth placed on probation *or conditional release* or under the juvenile probation officer's supervision, including enforcement of the terms of probation *or conditional release* or intervention;
- (d) assist any public and private community and work projects engaged in by youth to pay fines, make restitution, and pay any other costs ordered by the court that are associated with youth delinquency or need for intervention;
- (e) perform any other functions designated by the court.

(2) A juvenile probation officer does not have power to make arrests or to perform any other law enforcement functions in carrying out the juvenile

probation officer's duties except that a juvenile probation officer may take into custody any youth who violates either the youth's probation, *terms and conditions of the youth's conditional release agreement*, or a lawful order of the court.

(3) The duties of a full-time or part-time juvenile probation officer may not be performed by a person serving as a law enforcement officer."

Section 23. Section 41-5-2005, MCA, is amended to read:

"41-5-2005. Youth placement committee recommendation to youth court judge – acceptance or rejection. (1) (a) Prior to commitment of a youth to the legal custody of the youth court under 41-5-1512 or 41-5-1513 ~~or to the department under 41-5-1513~~, a youth placement committee ~~must~~ *may* be ~~convened established as provided for in 41-5-121~~. Except as provided in subsection (1)(b), the committee, *if established*, shall submit in writing to the youth court judge its primary and alternative recommendations for placement of the youth.

(b) An alternative recommendation is unnecessary if the committee's recommendation is placement in a youth correctional facility.

(2) The committee shall first consider placement of the youth in a community-based facility or program and shall give priority to placement of the youth in a facility or program located in the state of Montana.

(3) If in-state alternatives for placement of the youth are inappropriate, the committee may recommend an out-of-state placement. The committee shall state in its recommendation the reasons why in-state services are not appropriate.

(4) The primary and alternative recommendations of the youth placement committee must be for similar facilities or programs. The youth court may require a youth placement committee to reevaluate a youth if the recommended placements are dissimilar.

(5) If the youth court rejects both of the committee's recommendations, it shall promptly notify the committee in writing of the reasons for rejecting the recommendations and shall make an appropriate placement for the youth.

(6) The youth court may not order a placement or change of placement that results in a deficit in the annual allocation established for that district under 41-5-130 without approval from the office of court administrator.

(7) The youth court shall evaluate the cost of the placement or change of placement and ensure that the placement or change of placement will not overspend the annual allocation provided by the office of court administrator under 41-5-130."

Section 24. Section 45-5-501, MCA, is amended to read:

"45-5-501. Definitions. (1) (a) As used in 45-5-502, 45-5-503, and 45-5-508, the term "consent" means words or overt actions indicating a freely given agreement to have sexual intercourse or sexual contact and is further defined but not limited by the following:

(i) an expression of lack of consent through words or conduct means there is no consent or that consent has been withdrawn;

(ii) a current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue does not constitute consent; and

(iii) lack of consent may be inferred based on all of the surrounding circumstances and must be considered in determining whether a person gave consent.

(b) Subject to subsections (1)(c) and (1)(d), the victim is incapable of consent because the victim is:

(i) mentally disordered or incapacitated;

- (ii) physically helpless;
- (iii) overcome by deception, coercion, or surprise;
- (iv) less than 16 years old;
- (v) incarcerated in an adult or juvenile correctional, detention, or treatment facility or is on probation, *conditional release*, or parole and the perpetrator is an employee, contractor, or volunteer of the supervising authority and has supervisory or disciplinary authority over the victim, unless the act is part of a lawful search;

- (vi) receiving services from a youth care facility, as defined in 52-2-602, and the perpetrator:

- (A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

- (B) is an employee, contractor, or volunteer of the youth care facility; or

- (vii) admitted to a mental health facility, as defined in 53-21-102, is admitted to a community-based facility or a residential facility, as those terms are defined in 53-20-102, or is receiving community-based services, as defined in 53-20-102, and the perpetrator:

- (A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

- (B) is an employee, contractor, or volunteer of the facility or community-based service.

- (c) Subsection (1)(b)(v) does not apply if the individuals are married to each other and one of the individuals involved is on probation, *conditional release*, or parole and the other individual is a probation or parole officer of a supervising authority.

- (d) Subsections (1)(b)(vi) and (1)(b)(vii) do not apply if the individuals are married to each other and one of the individuals involved is a patient in or resident of a facility, is a recipient of community-based services, or is receiving services from a youth care facility and the other individual is an employee, contractor, or volunteer of the facility or community-based service.

- (2) As used in 45-5-508, the term "force" means:

- (a) the infliction, attempted infliction, or threatened infliction of bodily injury or the commission of a forcible felony by the offender; or

- (b) the threat of substantial retaliatory action that causes the victim to reasonably believe that the offender has the ability to execute the threat.

- (3) As used in 45-5-502 and this section, the following definitions apply:

- (a) "*Conditional release*", in the case of a youth offender, has the meaning provided in 41-5-103.

- (~~a~~)(b) "Parole",

- (~~i~~) in the case of an adult offender, has the meaning provided in 46-1-202; and

- (~~ii~~) in the case of a juvenile offender, means supervision of a youth released from a state youth correctional facility, as defined in 41-5-103, to the supervision of the department of corrections.

- (~~b~~)(c) "Probation" means:

- (i) in the case of an adult offender, release without imprisonment of a defendant found guilty of a crime and subject to the supervision of a supervising authority; and

- (ii) in the case of a ~~juvenile youth~~ offender, supervision of the ~~juvenile youth~~ by a youth court pursuant to Title 41, chapter 5.

- (~~c~~)(d) "Supervising authority" includes a court, including a youth court, a county, or the department of corrections."

Section 25. Section 45-5-502, MCA, is amended to read:

“45-5-502. Sexual assault. (1) A person who knowingly subjects another person to any sexual contact without consent commits the offense of sexual assault.

(2) (a) On a first conviction for sexual assault, the offender shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(b) On a second conviction for sexual assault, the offender shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both.

(c) On a third and subsequent conviction for sexual assault, the offender shall be fined an amount not to exceed \$10,000 or be imprisoned for a term not to exceed 5 years, or both.

(3) If the victim is less than 16 years old and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing sexual assault, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years, unless the judge makes a written finding that there is good cause to impose a term of less than 4 years and imposes a term of less than 4 years, or more than 100 years and may be fined not more than \$50,000.

(4) An act “in the course of committing sexual assault” includes an attempt to commit the offense or flight after the attempt or commission.

(5) (a) Subject to subsections (5)(b) and (5)(c), consent is ineffective under this section if the victim is:

(i) incarcerated in an adult or juvenile correctional, detention, or treatment facility or is on probation, *conditional release*, or parole and the perpetrator is an employee, contractor, or volunteer of the supervising authority and has supervisory or disciplinary authority over the victim, unless the act is part of a lawful search;

(ii) less than 14 years old and the offender is 3 or more years older than the victim;

(iii) receiving services from a youth care facility, as defined in 52-2-602, and the perpetrator:

(A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

(B) is an employee, contractor, or volunteer of the youth care facility; or

(iv) admitted to a mental health facility, as defined in 53-21-102, is admitted to a community-based facility or a residential facility, as those terms are defined in 53-20-102, or is receiving community-based services, as defined in 53-20-102, and the perpetrator:

(A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

(B) is an employee, contractor, or volunteer of the facility or community-based service.

(b) Subsection (5)(a)(i) does not apply if one of the parties is on probation, *conditional release*, or parole and the other party is a probation or parole officer of the supervising authority and the parties are married to each other.

(c) Subsections (5)(a)(iii) and (5)(a)(iv) do not apply if the individuals are married to each other and one of the individuals involved is a patient in or resident of a facility, is a recipient of community-based services, or is receiving services from a youth care facility and the other individual is an employee, contractor, or volunteer of the facility or community-based service.”

Section 26. Section 46-23-102, MCA, is amended to read:

“46-23-102. Cases of juveniles excluded. The provisions of parts 1, 2, 3, and 10 of this chapter ~~shall do not apply to probation in the juvenile youth courts or to parole conditional release from state institutions for juveniles youth correctional facilities.~~”

Section 27. Section 52-5-102, MCA, is amended to read:

“52-5-102. Control and management of youth correctional facilities. The facilities provided for in 52-5-101 shall exercise their functions under the supervision and general management of the department of corrections. Except where otherwise provided by law, the department by rules shall establish standards of care and policies of admission, transfers, discharge, and ~~parole supervision conditional release~~ in order to provide adequate care for children and adequate service to the courts. Policies of admission may include criteria for medical examinations required under 52-5-108. The department shall develop special programs within each facility that are adaptable to the particular needs of its operation.”

Section 28. Section 52-5-103, MCA, is amended to read:

“52-5-103. Cooperative agreements for services with governing body of Indian tribe. (1) The department of corrections may enter into agreements with the governing body of an Indian tribe within the state for residential, educational, *and* evaluation, ~~and parole~~ services maintained by the department for children who have been adjudicated delinquent by the tribal court, subject to the provisions of this part and parts 1 and 2 of Title 53, chapter 1.

(2) Any agreement entered into under subsection (1) must also satisfy the requirements of Title 18, chapter 11.”

Section 29. Section 52-5-109, MCA, is amended to read:

“52-5-109. Transportation costs – arrangement for transportation. (1) Prior to adjudication:

(a) for a youth placed in a facility, other than a state youth correctional facility or a detention facility, the judicial district of the youth court to which the youth has been referred shall pay the cost for transporting the youth to the facility and for any other transportation costs incurred while the youth is in the facility. The district shall pay these costs from its annual allocation provided for in 41-5-130.

(b) for a youth detained in a detention facility, the county of the youth court to which the youth has been referred shall pay the cost for transporting the youth to the facility and for any other transportation costs while the youth is in the facility.

(2) After adjudication:

(a) for a youth placed in a nonsecure facility within or outside the state, the judicial district of the youth court in which the youth was adjudicated shall pay the costs for transporting the youth to and from the facility from its annual allocation established under 41-5-130;

(b) for a youth committed to the department of corrections for placement in an in-state youth correctional facility *or returned to the department for violation of the terms and conditions of the youth's conditional release agreement*, the county of the youth court in which the youth was adjudicated shall pay the cost for transporting the youth to the facility. The department shall pay the cost for transporting the youth after the youth is released from the facility or provide other arrangements for transporting the youth.

(c) for a youth placed in an out-of-state correctional facility pursuant to 41-5-355, the department of corrections shall pay the cost for transporting the

youth to the facility and the cost for transporting the youth after the youth is released from the facility.

(3) The youth court probation office shall arrange for all transportation to and from an out-of-home placement except when ~~the youth is under the parole supervision of the department or when the department of corrections is~~ responsible for transportation costs as provided for in subsections (2)(b) and (2)(c)."

Section 30. Section 52-5-126, MCA, is amended to read:

"52-5-126. Youth parole agreement Conditional release agreement.

(1) A youth released by the department of corrections from one of the state youth correctional facilities to the supervision, custody, and control of the department shall, before the youth's release, sign a parole agreement containing:

(a) a statement of the terms and conditions of the release, including a list of the acts that, if committed by the youth, may result in a return to the facility; and

(b) a statement that if the department or any person alleges any violation of the terms and conditions of the agreement, the youth is entitled to a hearing as provided for in 52-5-129 before being returned to the facility. *At least 30 days before a youth is released by the department of corrections from a state youth correctional facility to the supervision, custody, and control of the youth court, the department, youth, and juvenile probation officer assigned to the youth shall develop a conditional release agreement for the youth.*

(2) At least 14 days before the youth is released, the department, youth, and juvenile probation officer shall finalize and sign the conditional release agreement. The agreement must contain a statement advising the youth of the youth's rights under [section 1] and the terms and conditions that may result in a revocation of the youth's conditional release.

(2)(3) A conditional release agreement for a youth released from a state youth correctional facility for commitment to a mental health facility pursuant to Title 53, chapter 21, part 1, ~~shall sign a parole agreement that will must~~ remain in effect until the ~~department youth court~~ no longer has custody of the youth."

Section 31. Section 52-5-127, MCA, is amended to read:

"52-5-127. Control over youth released under parole agreement placed on conditional release. The department of corrections ~~youth court~~ has control over a youth released pursuant to a parole agreement under ~~52-5-126 by the department of corrections pursuant to a conditional release agreement under 52-5-126~~ until the youth attains 18 years of age unless the youth is discharged by the ~~department youth court~~ before age 18. However, the youth is subject to the continuing jurisdiction of the youth courts of Montana, pursuant to 41-5-205, for acts committed by the youth ~~while under the control of the department.~~"

Section 32. Section 52-5-128, MCA, is amended to read:

"52-5-128. Detention of youth who violates parole agreement conditional release or escapes from facility or program. (1) A juvenile probation officer may detain a youth who ~~violates~~ allegedly has violated the terms and conditions of the youth's ~~parole agreement conditional release agreement.~~ A law enforcement officer of the state or a county or a city shall detain a youth who has allegedly violated the terms and conditions of the youth's conditional release agreement upon receipt of a warrant to detain the youth.

(2) The department of corrections may detain a youth who has escaped or ~~who escapes~~ from a state youth correctional facility or program operated by or under contract with the department. ~~may be detained by the department or by a~~ A law enforcement officer of the state; or a county; or a city of the state shall

detain a youth upon notice in writing to the officer by the department to the effect that the youth has violated the terms and conditions of the youth's parole agreement or has escaped from a state youth correctional facility or program operated by or under contract with the department."

Section 33. Section 53-1-203, MCA, is amended to read:

"53-1-203. Powers and duties of department of corrections. (1) The department of corrections shall:

(a) subject to subsection (6), adopt rules necessary:

(i) ~~to carry out the purposes of 41-5-125;~~

(ii) ~~(i)~~ for the siting, establishment, and expansion of prerelease centers;

(iii) ~~(ii)~~ for the expansion of treatment facilities or programs previously established by contract through a competitive procurement process;

(iv) ~~(iii)~~ for the establishment and maintenance of residential methamphetamine treatment programs;

(v) ~~(iv)~~ for the admission, custody, transfer, and release of persons in department programs except as otherwise provided by law; and

(vi) ~~(v)~~ to carry out the purposes of Article II, section 36, of the Montana constitution;

(b) subject to the functions of the department of administration, lease or purchase lands for use by correctional facilities and classify those lands to determine those that may be most profitably used for agricultural purposes, taking into consideration the needs of all correctional facilities for the food products that can be grown or produced on the lands and the relative value of agricultural programs in the treatment or rehabilitation of the persons confined in correctional facilities;

(c) contract with private, nonprofit Montana corporations or, pursuant to the Montana Community Corrections Act, with community corrections facilities or programs or local or tribal governments to establish and maintain:

(i) prerelease centers for purposes of preparing inmates of a Montana prison who are approaching parole eligibility or discharge for release into the community, providing an alternative placement for offenders who have violated parole or probation, and providing a sentencing option for felony offenders pursuant to 46-18-201. The centers shall provide a less restrictive environment than the prison while maintaining adequate security. The centers must be operated in coordination with other department correctional programs. This subsection does not affect the department's authority to operate and maintain prerelease centers.

(ii) residential methamphetamine treatment programs for the purpose of alternative sentencing as provided for in 46-18-201 or 46-18-202, and any other sections relating to alternative sentences for persons convicted of possession of methamphetamine. The department shall issue a request for proposals using a competitive process and shall follow the applicable contract and procurement procedures in Title 18.

(d) use the staff and services of other state agencies and units of the Montana university system, within their respective statutory functions, to carry out its functions under this title;

(e) propose programs to the legislature to meet the projected long-range needs of corrections, including programs and facilities for the custody, supervision, treatment, parole, and skill development of persons placed in correctional facilities or programs;

(f) encourage the establishment of programs at the local and state level for the rehabilitation and education of felony offenders;

(g) encourage efforts within the department and at the local level that would develop housing options and resource materials related to housing for

individuals who are released from the Montana state prison or community corrections programs;

(h) maintain data on the number of individuals who are discharged from the adult correction services listed in 53-1-202 into a homeless shelter or a homeless situation;

(i) administer all state and federal funds allocated to the department for delinquent youth, as defined in 41-5-103;

(j) collect and disseminate information relating to youth who are committed to the department for placement in a state youth correctional facility;

(k) maintain adequate data on placements that it funds in order to keep the legislature properly informed of the specific information, by category, related to delinquent youth in out-of-home care facilities;

(l) provide funding for youth who are committed to the department for placement in a state youth correctional facility;

(m) administer youth correctional facilities; *and*

~~(n) provide supervision, care, and control of youth released from a state youth correctional facility; and~~

~~(n)~~ use to maximum efficiency the resources of state government in a coordinated effort to:

(i) provide for delinquent youth committed to the department; and

(ii) coordinate and apply the principles of modern correctional administration to the facilities and programs administered by the department.

(2) The department may contract with private, nonprofit or for-profit Montana corporations to establish and maintain a residential sexual offender treatment program. If the department intends to contract for that purpose, the department shall adopt rules for the establishment and maintenance of that program.

(3) The department and a private, nonprofit or for-profit Montana corporation may not enter into a contract under subsection (1)(c) or (2) for a period that exceeds 20 years. The provisions of 18-4-313 that limit the term of a contract do not apply to a contract authorized by subsection (1)(c) or (2). Prior to entering into a contract for a period of 20 years, the department shall submit the proposed contract to the legislative audit committee. The legislative audit division shall review the contract and make recommendations or comments to the legislative audit committee. The committee may make recommendations or comments to the department. The department shall respond to the committee, accepting or rejecting the committee recommendations or comments prior to entering into the contract.

(4) The department of corrections may enter into contracts with nonprofit corporations or associations or private organizations to provide substitute care for delinquent youth in state youth correctional facilities ~~or on juvenile parole supervision.~~

(5) The department may contract with Montana corporations to operate a day reporting program as an alternate sentencing option as provided in 46-18-201 and 46-18-225 and as a sanction option under 46-23-1015. The department shall adopt by rule the requirements for a day reporting program, including but not limited to requirements for daily check-in, participation in programs to develop life skills, and the monitoring of compliance with any conditions of probation, such as drug testing.

(6) Rules adopted by the department pursuant to subsection (1)(a) may not amend or alter the statutory powers and duties of the state board of pardons and parole. The rules for the siting, establishment, and expansion of prerelease centers must state that the siting is subject to any existing conditions, covenants, restrictions of record, and zoning regulations. The rules

must provide that a prerelease center may not be sited at any location without community support. The prerelease siting, establishment, and expansion must be subject to, and the rules must include, a reasonable mechanism for a determination of community support for or objection to the siting of a prerelease center in the area determined to be impacted. The prerelease siting, establishment, and expansion rules must provide for a public hearing conducted pursuant to Title 2, chapter 3.

(7) The department shall ensure that risk and needs assessments drive the department's supervision and correctional practices, including integrating assessment results into supervision contact standards and case management. The department shall regularly validate its risk assessment tool."

Section 34. Appropriation. For the biennium beginning July 1, 2019, there is appropriated \$10 from the general fund to the department of justice to implement the provisions of [this act].

Section 35. Repealer. The following section of the Montana Code Annotated is repealed:

52-5-129. Hearing on alleged violation of parole agreement -- waiver of hearing -- right to appeal outcome.

Section 36. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 41, chapter 5, and the provisions of Title 41, chapter 5, apply to [section 1].

Section 37. Contingent voidness. If the appropriation in House Bill No. 2 to the department of corrections for juvenile parole placement and services is not transferred to the office of court administrator, then [this act] is void.

Section 38. Effective date. [This act] is effective July 1, 2019.

Section 39. Applicability. [This act] applies to youth residing in a state youth correctional facility, in a residential placement approved by the department, or on parole and under community supervision on or after July 1, 2019.

Approved May 7, 2019

CHAPTER NO. 345

[HB 129]

AN ACT ALLOWING AN ELECTED COUNTY OFFICIAL GOVERNMENT TO SUBMIT TO THE ELECTORATE A QUESTION OF CHANGING THE TYPE OF ELECTIONS FROM PARTISAN TO NONPARTISAN OR FROM NONPARTISAN TO PARTISAN; REVISING THE USE OF PARTY NAME OR SYMBOL; AMENDING SECTIONS 7-3-103, 7-3-111, 7-3-149, AND 13-10-602, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-3-103, MCA, is amended to read:

"7-3-103. Amendment of self-government charter or adopted alternative form of government – *proposed change in type of election* – election. (1) An amendment to a self-government charter or an adopted alternative form of government may only be made by submitting the question of amendment to the electors of the local government as provided in 7-3-149. An amendment approved by the electors becomes effective on the first day of the local government fiscal year following the fiscal year of approval unless the question submitted to the electors provides otherwise.

(2) An amendment to a self-government charter or an adopted alternative form of government may be proposed by:

- (a) petition as provided in 7-3-125;
- (b) the local government by ordinance; or
- (c) a study commission recommendation pursuant to 7-3-192.

(3) The local government, by ordinance, may provide procedures for the submission and verification of initiative petitions.

(4) The question to change the type of election held under an elected county official government provided for in 7-3-111 from being conducted on a partisan basis to being conducted on a nonpartisan basis or from being conducted on a nonpartisan basis to being conducted on a partisan basis may, by ordinance, be submitted to the electorate of the local government as provided in 7-3-149. A change to the type of election requires an affirmative vote of a simple majority of those voting on the question, pursuant to 7-3-149."

Section 2. Section 7-3-111, MCA, is amended to read:

"7-3-111. Statutory basis for elected county official government.

(1) For the purpose of determining the statutory basis of existing units of local government after May 2, 1977, each unit of local government organized under the general statutes authorizing the elected county official form of government shall be governed by the following sections:

- (a) 7-3-401;
- (b) 7-3-402;
- (c) 7-3-412(3);
- (d) 7-3-413(†);
- (e) 7-3-414(1);
- (f) 7-3-415(2);
- (g) 7-3-416(2);
- (h) 7-3-417(2);
- (i) 7-3-418;
- (j) 7-3-432(1);
- (k) 7-3-433(1);
- (l) 7-3-434(1);
- (m) 7-3-435(1);
- (n) 7-3-436(1);
- (o) 7-3-437(1);
- (p) 7-3-438(1);
- (q) 7-3-439(1);
- (r) 7-3-440(1);
- (s) 7-3-441(1);
- (t) 7-3-442(1) if the county has elected an auditor;
- (u) 7-3-442(6) if the county has not elected an auditor.

(2) This form has terms of 4 years for all elected officials except commissioners who are elected to 6-year terms. The commission consists of three members."

Section 3. Section 7-3-149, MCA, is amended to read:

"7-3-149. Election on alteration of form of government. (1) The governing body shall call an election on the question of an alteration of the form of government, ~~or~~ a change in a plan of government, ~~or, for an elected county official government, a change in the type of election proposed pursuant to 7-3-103(4)~~ upon:

(a) the election administrator's verification that a petition filed pursuant to 7-3-121 through 7-3-123, 7-3-125, and 7-3-141 through 7-3-148 meets all the necessary requirements;

(b) adoption of a local government ordinance pursuant to 7-3-103(2)(b) ~~or~~ (4); or

(c) a recommendation by a study commission pursuant to 7-3-192.

(2) The election must be conducted in accordance with Title 13, chapter 1, part 4.

(3) The cost of the election must be paid for by the local government.

(4) (a) The affirmative vote of a simple majority of those voting on the question is required for adoption.

(b) In any election involving the question of consolidation, each question must be submitted to the electors in the county and requires an affirmative vote of a simple majority of the votes cast in the county on the question for adoption. There is no requirement for separate majorities in local governments voting on consolidation.

(c) In any election involving the question of county merger, the questions must be submitted to the electors in the counties affected and require a majority of the votes cast on the questions in each affected county for adoption.

(d) If the electors disapprove the proposed new form of local government, amendments, or consolidation plan, the local government retains its existing form.”

Section 4. Section 13-10-602, MCA, is amended to read:

“13-10-602. Use of party name. (1) *Except as provided in subsection (3), a political party and its regularly nominated candidates, members, and officers have the sole and exclusive right to the use of the party name. A candidate for office may not use any word of the name of any other political party or organization other than that by which the candidate is nominated in a manner that indicates or implies the individual is a candidate of the nonnominating party.*

(2) *An independent or nonpartisan candidate, except as provided in subsection (3), may not use any word of the name of any existing political party or organization in the candidacy in a manner that indicates or implies that the individual is a candidate of that party or organization.*

(3) *A candidate for an elective office under an elected county official government provided for in 7-3-111 who is running in an election conducted after electors have approved a change pursuant to 7-3-103(4) in the type of election held from partisan to nonpartisan may use a party name or symbol in the candidate’s campaign material.”*

Section 5. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2019

CHAPTER NO. 346

[HB 173]

AN ACT REVISING LAWS RELATED TO CONSENT AND PROVIDING THAT ELEMENTARY OR HIGH SCHOOL STUDENTS ARE INCAPABLE OF CONSENT IN A SCHOOL SETTING; AND AMENDING SECTIONS 45-5-501 AND 45-5-502, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 45-5-501, MCA, is amended to read:

“45-5-501. Definitions. (1) (a) As used in 45-5-502, 45-5-503, and 45-5-508, the term “consent” means words or overt actions indicating a freely given agreement to have sexual intercourse or sexual contact and is further defined but not limited by the following:

(i) an expression of lack of consent through words or conduct means there is no consent or that consent has been withdrawn;

(ii) a current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue does not constitute consent; and

(iii) lack of consent may be inferred based on all of the surrounding circumstances and must be considered in determining whether a person gave consent.

(b) Subject to subsections (1)(c) ~~and (1)(d) through (1)(e)~~, the victim is incapable of consent because the victim is:

(i) mentally disordered or incapacitated;

(ii) physically helpless;

(iii) overcome by deception, coercion, or surprise;

(iv) less than 16 years old;

(v) incarcerated in an adult or juvenile correctional, detention, or treatment facility or is on probation or parole and the perpetrator is an employee, contractor, or volunteer of the supervising authority and has supervisory or disciplinary authority over the victim, unless the act is part of a lawful search;

(vi) receiving services from a youth care facility, as defined in 52-2-602, and the perpetrator:

(A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

(B) is an employee, contractor, or volunteer of the youth care facility; or

(vii) admitted to a mental health facility, as defined in 53-21-102, is admitted to a community-based facility or a residential facility, as those terms are defined in 53-20-102, or is receiving community-based services, as defined in 53-20-102, and the perpetrator:

(A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

(B) is an employee, contractor, or volunteer of the facility or community-based service; or

(viii) a student of an elementary, middle, junior high, or high school, whether public or nonpublic, and the perpetrator is not a student of an elementary, middle, junior high, or high school and is an employee, contractor, or volunteer of any school who has ever had instructional, supervisory, disciplinary, or other authority over the student in a school setting.

(c) Subsection (1)(b)(v) does not apply if the individuals are married to each other and one of the individuals involved is on probation or parole and the other individual is a probation or parole officer of a supervising authority.

(d) Subsections (1)(b)(vi) and (1)(b)(vii) do not apply if the individuals are married to each other and one of the individuals involved is a patient in or resident of a facility, is a recipient of community-based services, or is receiving services from a youth care facility and the other individual is an employee, contractor, or volunteer of the facility or community-based service.

(e) Subsection (1)(b)(viii) does not apply if the individuals are married to each other.

(2) As used in 45-5-508, the term “force” means:

(a) the infliction, attempted infliction, or threatened infliction of bodily injury or the commission of a forcible felony by the offender; or

(b) the threat of substantial retaliatory action that causes the victim to reasonably believe that the offender has the ability to execute the threat.

(3) As used in 45-5-502 and this section, the following definitions apply:

(a) “Parole”:

(i) in the case of an adult offender, has the meaning provided in 46-1-202; and

(ii) in the case of a juvenile offender, means supervision of a youth released from a state youth correctional facility, as defined in 41-5-103, to the supervision of the department of corrections.

(b) "Probation" means:

(i) in the case of an adult offender, release without imprisonment of a defendant found guilty of a crime and subject to the supervision of a supervising authority; and

(ii) in the case of a juvenile offender, supervision of the juvenile by a youth court pursuant to Title 41, chapter 5.

(c) "Supervising authority" includes a court, including a youth court, a court, or the department of corrections."

Section 2. Section 45-5-502, MCA, is amended to read:

"45-5-502. Sexual assault. (1) A person who knowingly subjects another person to any sexual contact without consent commits the offense of sexual assault.

(2) (a) On a first conviction for sexual assault, the offender shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(b) On a second conviction for sexual assault, the offender shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both.

(c) On a third and subsequent conviction for sexual assault, the offender shall be fined an amount not to exceed \$10,000 or be imprisoned for a term not to exceed 5 years, or both.

(3) If the victim is less than 16 years old and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing sexual assault, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years, unless the judge makes a written finding that there is good cause to impose a term of less than 4 years and imposes a term of less than 4 years, or more than 100 years and may be fined not more than \$50,000.

(4) An act "in the course of committing sexual assault" includes an attempt to commit the offense or flight after the attempt or commission.

(5) (a) Subject to subsections (5)(b) and ~~(5)(c)~~ *through (5)(d)*, consent is ineffective under this section if the victim is:

(i) incarcerated in an adult or juvenile correctional, detention, or treatment facility or is on probation or parole and the perpetrator is an employee, contractor, or volunteer of the supervising authority and has supervisory or disciplinary authority over the victim, unless the act is part of a lawful search;

(ii) less than 14 years old and the offender is 3 or more years older than the victim;

(iii) receiving services from a youth care facility, as defined in 52-2-602, and the perpetrator:

(A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

(B) is an employee, contractor, or volunteer of the youth care facility; ~~or~~

(iv) admitted to a mental health facility, as defined in 53-21-102, is admitted to a community-based facility or a residential facility, as those terms are defined in 53-20-102, or is receiving community-based services, as defined in 53-20-102, and the perpetrator:

(A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and

(B) is an employee, contractor, or volunteer of the facility or community-based service; *or*

(v) a student of an elementary, middle, junior high, or high school, whether public or nonpublic, and the perpetrator is not a student of an elementary, middle, junior high, or high school and is an employee, contractor, or volunteer of any school who has ever had instructional, supervisory, disciplinary, or other authority over the student in a school setting.

(b) Subsection (5)(a)(i) does not apply if one of the parties is on probation or parole and the other party is a probation or parole officer of the supervising authority and the parties are married to each other.

(c) Subsections (5)(a)(iii) and (5)(a)(iv) do not apply if the individuals are married to each other and one of the individuals involved is a patient in or resident of a facility, is a recipient of community-based services, or is receiving services from a youth care facility and the other individual is an employee, contractor, or volunteer of the facility or community-based service.

(d) Subsection (5)(a)(v) does not apply if the individuals are married to each other."

Approved May 7, 2019

CHAPTER NO. 347

[HB 211]

AN ACT GENERALLY REVISING EDUCATION LAWS RELATED TO RECRUITMENT AND RETENTION; REVISING ELIGIBILITY FOR THE QUALITY EDUCATOR LOAN ASSISTANCE PROGRAM TO BETTER TARGET ASSISTANCE; ALLOWING A QUALITY EDUCATOR RECEIVING LOAN REPAYMENT ASSISTANCE TO EXCLUDE THE REPAYMENT FROM ADJUSTED GROSS INCOME FOR STATE INCOME TAX PURPOSES; ALLOWING IMPACTED SCHOOLS TO PROVIDE LOAN REPAYMENT ASSISTANCE TO ELIGIBLE TEACHERS AFTER COMPLETING A FOURTH YEAR; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 15-30-2110, 20-4-134, 20-4-501, 20-4-502, 20-4-503, 20-4-504, AND 20-4-505, MCA; REPEALING SECTION 20-4-506, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-30-2110, MCA, is amended to read:

"15-30-2110. Adjusted gross income. (1) Subject to subsection ~~(14)~~ (15), adjusted gross income is the taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62, and in addition includes the following:

(a) (i) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

(b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a reduction of Montana income tax liability as determined under subsection ~~(15)~~ (16);

(c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;

(d) depreciation or amortization taken on a title plant as defined in 33-25-105;

(e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the amount recovered reduced the taxpayer's Montana income tax in the year deducted;

(f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution of the same estate or trust for the same tax period; and

(g) except for exempt-interest dividends described in subsection (2)(a)(ii), the amount of any dividend to the extent that the dividend is not included in federal adjusted gross income.

(2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not include the following, which are exempt from taxation under this chapter:

(a) (i) all interest income from obligations of the United States government, the state of Montana, or a county, municipality, district, or other political subdivision of the state and any other interest income that is exempt from taxation by Montana under federal law;

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C. 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

(b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

(c) (i) except as provided in subsection (2)(c)(ii) and subject to subsection (16) (17), the first \$4,070 of all pension and annuity income received as defined in 15-30-2101;

(ii) subject to subsection (16) (17), for pension and annuity income described under subsection (2)(c)(i), as follows:

(A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total amount of the exclusion provided in subsection (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in excess of \$33,910 as shown on the taxpayer's return;

(B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$33,910 as shown on their joint return;

(d) all Montana income tax refunds or tax refund credits;

(e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

(f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage, or lodging;

(g) all benefits received under the workers' compensation laws;

(h) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law;

(i) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";

(j) principal and income in a medical care savings account established in accordance with 15-61-201 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, including a medical care savings account inherited by an immediate family member as provided in 15-61-202(6);

(k) principal and income in a first-time home buyer savings account established in accordance with 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase of a single-family residence;

(l) contributions or earnings withdrawn from a family education savings account or from a qualified tuition program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified higher education expenses, as defined in 15-62-103, of a designated beneficiary;

(m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

(n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution of the same estate or trust for the same tax period;

(o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and ranch risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a deduction is not provided for federal income tax purposes;

(p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and taxpayer meet the filing requirements in 15-30-2602.

(q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303;

(r) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in 15-31-163;

(s) the amount of a scholarship to an eligible student by a student scholarship organization pursuant to 15-30-3104; and

(t) a payment received by a private landowner for providing public access to public land pursuant to Title 76, chapter 17, part 1.

(3) A shareholder of a DISC that is exempt from the corporate income tax under 15-31-102(1)(l) shall include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election is effective.

(4) (a) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business deductions:

(i) by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken; or

(ii) for which a federal tax credit was elected under the Internal Revenue Code is allowed to deduct the amount of the business expense paid when there is no corresponding state income tax credit or deduction, regardless of the credit taken.

(b) The deductions in subsection (4)(a) must be made in the year that the wages, salaries, or business expenses were used to compute the credit.

In the case of a partnership or small business corporation, the deductions in subsection (4)(a) must be made to determine the amount of income or loss of the partnership or small business corporation.

(5) Married taxpayers filing a joint federal return who are required to include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(6) Married taxpayers filing a joint federal return who are allowed a capital loss deduction under section 1211 of the Internal Revenue Code, 26 U.S.C. 1211, and who file separate Montana income tax returns may claim the same amount of the capital loss deduction that is allowed on the federal return. If the allowable capital loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(7) In the case of passive and rental income losses, married taxpayers filing a joint federal return and who file separate Montana income tax returns are not required to recompute allowable passive losses according to the federal passive activity rules for married taxpayers filing separately under section 469 of the Internal Revenue Code, 26 U.S.C. 469. If the allowable passive loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss must be split equally on each return.

(8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed a deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C. 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

(9) (a) Married taxpayers filing a joint federal return who are allowed a deduction for interest paid for a qualified education loan under section 221 of the Internal Revenue Code, 26 U.S.C. 221, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(b) Married taxpayers filing a joint federal return who are allowed a deduction for qualified tuition and related expenses under section 222 of the Internal Revenue Code, 26 U.S.C. 222, and who file separate Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross income.

(10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to \$100 a week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion exceeds \$15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage in any substantial gainful activity by reason of any

medically determined physical or mental impairment lasting or expected to last at least 12 months.

(11) (a) An individual who contributes to one or more accounts established under the Montana family education savings program or to a qualified tuition program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce adjusted gross income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection applies only with respect to contributions to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions that reduced adjusted gross income.

(b) Contributions made pursuant to this subsection (11) are subject to the recapture tax provided in 15-62-208.

(12) (a) An individual who contributes to one or more accounts established under the Montana achieving a better life experience program or to a qualified program established and maintained by another state as provided by section 529A(e)(7) of the Internal Revenue Code, 26 U.S.C. 529A(e)(7), may reduce adjusted gross income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not to exceed \$3,000, for the spouses' contributions to the accounts. Spouses may jointly elect to treat one-half of the total contributions made by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection (12)(a) applies only with respect to contributions to an account for which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions that reduced adjusted gross income.

(b) Contributions made pursuant to this subsection (12) are subject to the recapture tax provided in 53-25-118.

(13) (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection (13)(a)(iv), not to exceed \$5,000, from the taxpayer's adjusted gross income if the taxpayer:

- (i) is a health care professional licensed in Montana as provided in Title 37;
- (ii) is serving a significant portion of a designated geographic area, special population, or facility population in a federally designated health professional shortage area, a medically underserved area or population, or a federal nursing shortage county as determined by the secretary of health and human services or by the governor;

- (iii) has had a student loan incurred as a result of health-related education; and

- (iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment program described in subsection (13)(b) as an incentive to practice in Montana.

(b) For the purposes of subsection (13)(a), a loan repayment program includes a federal, state, or qualified private program. A qualified private loan repayment program includes a licensed health care facility, as defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility as a licensed health care professional.

(14) A taxpayer may exclude the amount of loan repayment assistance received during the tax year pursuant to Title 20, chapter 4, part 5, not to exceed \$5,000, from the taxpayer's adjusted gross income.

~~(14)~~(15) Notwithstanding the provisions of subsection (1), adjusted gross income does not include 40% of capital gains on the sale or exchange of capital assets before December 31, 1986, as capital gains are determined under subchapter P. of Chapter 1 of the Internal Revenue Code as it read on December 31, 1986.

~~(15)~~(16) A refund received of federal income tax referred to in subsection (1)(b) must be allocated in the following order as applicable:

(a) to federal income tax in a prior tax year that was not deducted on the state tax return in that prior tax year;

(b) to federal income tax in a prior tax year that was deducted on the state tax return in that prior tax year but did not result in a reduction in state income tax liability in that prior tax year; and

(c) to federal income tax in a prior tax year that was deducted on the state tax return in that prior tax year and that reduced the taxpayer's state income tax liability in that prior tax year.

~~(16)~~(17) By November 1 of each year, the department shall multiply the amount of pension and annuity income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii) by the inflation factor for the following tax year, rounded to the nearest \$10. The resulting amounts are effective for that following tax year and must be used as the basis for the exemption determined under subsection (2)(c). (Subsection (2)(f) terminates on occurrence of contingency--sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency--sec. 9, Ch. 262, L. 2001; subsection (2)(s) terminates December 31, 2023--sec. 33, Ch. 457, L. 2015; subsection (2)(t) terminates June 30, 2027--sec. 10, Ch. 374, L. 2017.)"

Section 2. Section 20-4-134, MCA, is amended to read:

"20-4-134. Professional stipends for teachers certified by national board for professional teaching standards. (1) Pursuant to subsection (5), an annual stipend of up to \$1,500 must be provided to each teacher who holds a current certificate from the national board for professional teaching standards if the teacher is:

(a) a full-time classroom teacher, librarian, or other full-time employee serving in an assignment covered by national board certification assessment;

(b) certified to teach in Montana under the provisions of 20-4-103; and

(c) a full-time employee of:

(i) a Montana public school district, as defined in 20-6-101;

(ii) an education cooperative, as described in 20-7-451;

(iii) the Montana school for the deaf and blind, as described in 20-8-101; or

(iv) a state youth correctional facility, as defined in 41-5-103.

(2) An annual stipend of up to \$2,500 must be provided to each teacher who meets the criteria for the stipend in subsection (1) and who has an instructional assignment in a school identified as:

(a) a school in a high-poverty area eligible to participate in the community eligibility provision under Public Law 111-296; or

~~(b) a school impacted by a critical quality educator shortage pursuant to 20-4-503~~ *an impacted school as defined in 20-4-502.*

(3) A teacher becomes eligible for the stipend in subsection (1) in the school year beginning July 1 after the teacher obtains certification or recertification from the national board for professional teaching standards.

(4) By March 1, the superintendent of public instruction shall distribute stipend payments to any entity listed in subsections (1)(c)(i) through (1)(c)(iv) that employs an eligible teacher.

(5) The obligation for funding a portion of the professional stipends is an obligation of the state. This section may not be construed to require a school district to provide its matching portion of a stipend to a qualifying teacher without a payment from the state to the district. If the money appropriated for the stipends is not enough to provide the full amount for each eligible teacher, the superintendent of public instruction shall request the state budget director to submit a request for a supplemental appropriation in the second year of the biennium that is sufficient to complete the funding of the stipends.

(6) (a) For a stipend under subsection (1), the state shall pay \$500 and another \$1 for each \$1 contributed by the teacher's school district, up to a maximum state contribution of \$1,000.

(b) For a stipend under subsection (2), the state shall pay \$1,000 and another \$2 for each \$1 contributed by the teacher's school district, up to a maximum state contribution of \$2,000."

Section 3. Section 20-4-501, MCA, is amended to read:

"20-4-501. Quality educator loan assistance program – purpose.

(1) There is a quality educator loan assistance program administered by the ~~board of regents through the office of the commissioner of higher education~~ *superintendent of public instruction*. The program must provide for the direct repayment of educational loans of eligible quality educators in accordance with policies and procedures adopted by the ~~board of regents~~ *superintendent of public instruction* in accordance with this part.

(2) The purpose of this program is to aid quality educator recruitment and retention for those schools most impacted by critical quality educator shortages. The program must be implemented in a manner that maximizes recruitment and retention assistance to impacted schools."

Section 4. Section 20-4-502, MCA, is amended to read:

"20-4-502. Definitions. For purposes of this part, unless the context requires otherwise, the following definitions apply:

(1) *"Critical quality educator shortage area" means a specific licensure or endorsement area in an impacted school in which:*

(a) in any of the 3 immediate preceding school fiscal years a position was:

(i) filled through the procedures set forth in 19-20-732, 20-4-106(1)(e), or 20-4-111;

(ii) filled from a candidate pool of less than five qualified candidates; or

(iii) advertised and remained vacant and unfilled due to a lack of qualified candidates for a period in excess of 30 days; or

(b) a vacancy for the current school year was advertised for a period of at least 30 days and the district received less than five applications from qualified candidates.

~~(1)~~(2) "Education cooperative" means a cooperative of Montana public schools as described in 20-7-451.

~~(2)~~(3) "Educational loans" means all loans made pursuant to a federal loan program, except federal parent loans for undergraduate students (PLUS) loans, as provided in 20 U.S.C. 1078-2.

~~(3)~~(4) "Federal loan program" means educational loans authorized by 20 U.S.C. 1071, et seq., 20 U.S.C. 1087a, et seq., and 20 U.S.C. 1087aa, et seq.

(5) "Impacted school" means:

(a) a special education cooperative;

(b) the Montana school for the deaf and blind, as described in 20-8-101;

(c) the Montana youth challenge program, as established in 10-1-1401;

(d) a state youth correctional facility, as defined in 41-5-103;

(e) a public school located on an Indian reservation; and

(f) a public school that, driving at a reasonable speed for the road surface, is located more than 20 minutes from a Montana city with a population greater than 15,000 based on the most recent federal decennial census.

(4)(6) (a) "Quality educator" means a full-time equivalent educator, as reported to the superintendent of public instruction for accreditation purposes in the current school year, who:

(i) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (4)(b) (6)(b) in a position that requires an educator license in accordance with administrative rules adopted by the board of public education; or

(ii) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-22-301, 37-23-201, 37-24-301, or 37-25-302 and is employed by an entity listed in subsection (4)(b) (6)(b) of this section to provide services to students.

(b) For purposes of subsection (4)(a) (6)(a), an entity means:

(i) a school district;

(ii) an education cooperative;

(iii) the Montana school for the deaf and blind, as described in 20-8-101;

(iv) the Montana youth challenge program; and

(v) a state youth correctional facility, as defined in 41-5-103.

(5)(7) "School district" means a public school district, as provided in 20-6-101 and 20-6-701."

Section 5. Section 20-4-503, MCA, is amended to read:

"20-4-503. Critical quality educator shortages. (1) The board of public education, in consultation with the office of public instruction, shall identify:

(a) ~~specific schools that are maintain and make publicly available a current list of impacted by critical quality educator shortages schools;~~ and

(b) ~~based on reporting by impacted schools or school districts in which impacted schools are located, identify within each the schools identified in subsection (1)(a) impacted school, the specific quality educator licensure or endorsement areas that are impacted by critical quality educator shortages shortage areas under 20-4-502(1)(a). The board of public education shall also establish a process for impacted schools to report and qualify, no later than 5 days after submission of a written report on a form developed by the board, a current vacancy for a critical quality educator shortage area under the criteria set forth in 20-4-502(1)(b). Critical quality educator shortage areas qualifying under 20-4-502(1)(b) are eligible for loan repayment assistance independent of the report under subsection (2) of this section.~~

(2) ~~In identifying impacted schools under subsection (1)(a), the board of public education, in consultation with the office of public instruction, shall consider including the following:~~

(a) ~~special education cooperatives;~~

(b) ~~the Montana school for the deaf and blind, as described in 20-8-101;~~

(c) ~~the Montana youth challenge program, as established in 10-1-1401;~~

(d) ~~state youth correctional facilities, as defined in 41-5-103;~~

(e) ~~public schools that are located on an American Indian reservation; and~~

(f) ~~public schools that, driving at a reasonable speed for the road surface, are located:~~

(i) ~~more than 45 minutes from a city with a population greater than 10,000 based on the most recent federal decennial census; or~~

(ii) ~~more than 30 minutes from a city with a population greater than 4,300 based on the most recent federal decennial census.~~

~~(3)(2) The board of public education shall publish by December 1 an annual report listing the schools and the licensure or endorsement areas identified as impacted by critical quality educator shortages, explaining the reasons that specific schools and licensure or endorsement areas have been identified and providing information regarding any success in retention critical quality educator shortage areas under 20-4-502(1)(a) in each impacted school. The report must apply to the school year that begins July 1 following the publication of the report in order to assist recruitment by impacted schools. For the school year beginning July 1, 2017, eligibility for the program may be governed by the report adopted by the board of public education by December 1, 2017. For the school year beginning July 1, 2019, eligibility for the program based on the criteria under 20-4-502(1)(a) must be governed by the report adopted by the board of public education by December 1, 2019.~~

~~(4)(3) A quality educator working at a school identified in subsection (1) an impacted school in a critical quality educator shortage area is eligible for repayment of all or part of the quality educator's outstanding educational loans existing at the time of application in accordance with the eligibility and award criteria established under this part. If a quality educator is eligible for loan assistance and remains employed in the same impacted school or another impacted school within the same school district and in the same critical quality educator shortage area for which the quality educator was originally eligible, the quality educator remains eligible for up to 3 years of state-funded loan repayment assistance and an additional 1 year of loan repayment assistance funded by the impacted school or the district under which the impacted school is operated pursuant to 20-4-504(2). Both state-funded and locally funded loan repayment assistance under this section is exempt from taxation as specified in 15-20-2110(14)."~~

Section 6. Section 20-4-504, MCA, is amended to read:

"20-4-504. Loan repayment assistance. (1) Loan repayment assistance may be provided on behalf of a quality educator who:

~~(1)(a) is employed newly hired in an identified impacted school described in 20-4-503(1) in a critical quality educator shortage area; and~~

~~(2)(b) has an educational loan that is not in default and that has a minimum unpaid current balance of at least \$1,000 at the time of application.~~

~~(2) A quality educator is eligible for state-funded loan repayment assistance for no more than 3 years and an additional 1 year of loan repayment assistance voluntarily funded by the impacted school or the district under which the impacted school is operated, with the maximum annual loan repayment assistance not to exceed:~~

~~(a) \$3,000 of state-funded loan repayment assistance after the first complete year of teaching in an impacted school;~~

~~(b) \$4,000 of state-funded loan repayment assistance after the second complete year of teaching in the same impacted school or another impacted school within the same school district;~~

~~(c) \$5,000 of state-funded loan repayment assistance after the third complete year of teaching in the same impacted school or another impacted school within the same school district; and~~

~~(d) up to \$5,000 of loan repayment assistance funded by the impacted school or the district under which the impacted school is operated after the fourth complete year of teaching in the same impacted school or another impacted school within the same school district.~~

~~(3) If the funding for state-funded loan repayment assistance in any year is less than the total amount for which Montana quality educators qualify, the superintendent of public instruction shall prorate repayment assistance amounts accordingly."~~

Section 7. Section 20-4-505, MCA, is amended to read:

“20-4-505. Loan repayment assistance documentation. (1) A quality educator shall submit an application for loan repayment assistance to the ~~board of regents~~ *superintendent of public instruction* in accordance with policies and procedures adopted by the ~~board of regents~~ *superintendent of public instruction*. The application must include official verification or proof of the applicant's total unpaid accumulated educational loan debt and other documentation required by the ~~board of regents~~ *superintendent of public instruction* that is necessary for verification of the applicant's eligibility.

(2) The ~~board of regents~~ *superintendent of public instruction* may require a quality educator who is eligible for loan repayment assistance to provide documentation that the quality educator has exhausted repayment assistance from other federal, state, or local loan forgiveness, discharge, or repayment incentive programs.

(3) ~~A quality educator is eligible for loan repayment assistance for no more than 3 years, with the maximum annual loan repayment assistance not to exceed:~~

(a) ~~\$3,000 after the first complete year of teaching in an impacted school;~~

(b) ~~\$4,000 after the second complete year of teaching in the same impacted school or another impacted school within the same school district; and~~

(c) ~~\$5,000 after the third complete year of teaching in the same impacted school or another impacted school within the same school district.~~

(4)(3) The ~~board of regents~~ *superintendent of public instruction* may remit payment of the loan on behalf of the quality educator in accordance with the requirements of this part and policies and procedures adopted by the ~~board of regents~~ *superintendent of public instruction*.

(4) ~~An impacted school or a school district under which an impacted school is operated may remit payment of the loan on behalf of a quality educator eligible for loan repayment assistance under this section in accordance with 20-4-504.”~~

Section 8. Repealer. The following section of the Montana Code Annotated is repealed:

20-4-506. Funding -- priorities.

Section 9. Appropriation. (1) There is appropriated \$500,000 from the general fund to the office of public instruction in each fiscal year of the biennium beginning July 1, 2019, for the purpose of state-funded loan repayment assistance pursuant to 20-4-504.

(2) The legislature intends that the appropriation in subsection (1) be considered as part of the ongoing base for the next legislative session.

Section 10. Effective date. [This act] is effective July 1, 2019.

Section 11. Applicability. [This act] applies to tax years beginning after December 31, 2019.

Approved May 7, 2019

CHAPTER NO. 348

[HB 217]

AN ACT REVISING LAWS RELATED TO THE SUSPENSION OF A DRIVER'S LICENSE FOR NONPAYMENT OF FINES, FEES, OR RESTITUTION; REMOVING SUSPENSION OF A DRIVER'S LICENSE OR PRIVILEGE AS A SENTENCING OPTION FOR NONPAYMENT OF FINES, FEES, OR RESTITUTION; ALLOWING A PERSON TO PETITION THE COURT TO ORDER THE PERSON'S DRIVER'S LICENSE TO BE REINSTATED

FOR A PREVIOUS FAILURE TO PAY FINES, FEES, OR RESTITUTION; PROVIDING THE PERSON MAY NOT BE CHARGED A REINSTATEMENT FEE; AMENDING SECTIONS 46-18-201, 61-5-214, AND 61-5-216, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-18-201, MCA, is amended to read:

“46-18-201. Sentences that may be imposed. (1) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may defer imposition of sentence, except as otherwise specifically provided by statute, for a period:

(i) not exceeding 1 year for a misdemeanor or for a period not exceeding 3 years for a felony; or

(ii) not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony if a financial obligation is imposed as a condition of sentence for either the misdemeanor or the felony, regardless of whether any other conditions are imposed.

(b) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of an offender who has been convicted of a felony on a prior occasion, whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

(2) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may suspend execution of sentence, except as otherwise specifically provided by statute, for a period up to the maximum sentence allowed or for a period of 6 months, whichever is greater, for each particular offense.

(3) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may impose a sentence that may include:

(i) a fine as provided by law for the offense;

(ii) payment of costs, as provided in 46-18-232, or payment of costs of assigned counsel as provided in 46-8-113;

(iii) a term of incarceration, as provided in Title 45 for the offense, at a county detention center or at a state prison to be designated by the department of corrections;

(iv) commitment of:

(A) an offender not referred to in subsection (3)(a)(iv)(B) to the department of corrections with a recommendation for placement in an appropriate correctional facility or program; however, all but the first 5 years of the commitment to the department of corrections must be suspended, except as provided in 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), and 45-5-625(4); or

(B) a youth transferred to district court under 41-5-206 and found guilty in the district court of an offense enumerated in 41-5-206 to the department of corrections for a period determined by the court for placement in an appropriate correctional facility or program;

(v) chemical treatment of sexual offenders, as provided in 45-5-512, if applicable, that is paid for by and for a period of time determined by the department of corrections, but not exceeding the period of state supervision of the person;

(vi) commitment of an offender to the department of corrections with the requirement that immediately subsequent to sentencing or disposition the offender is released to community supervision and that any subsequent violation must be addressed as provided in 46-23-1011 through 46-23-1015; or

(vii) any combination of subsections (2) and (3)(a)(i) through (3)(a)(vii).

(b) A court may permit a part or all of a fine to be satisfied by a donation of food to a food bank program.

(4) When deferring imposition of sentence or suspending all or a portion of execution of sentence, the sentencing judge may impose on the offender any reasonable restrictions or conditions during the period of the deferred imposition or suspension of sentence. Reasonable restrictions or conditions imposed under subsection (1)(a) or (2) may include but are not limited to:

(a) limited release during employment hours as provided in 46-18-701;

(b) incarceration in a detention center not exceeding 180 days;

(c) conditions for probation;

(d) payment of the costs of confinement;

(e) payment of a fine as provided in 46-18-231;

(f) payment of costs as provided in 46-18-232 and 46-18-233;

(g) payment of costs of assigned counsel as provided in 46-8-113;

(h) with the approval of the facility or program, an order that the offender be placed in a community corrections facility or program as provided in 53-30-321;

(i) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available and that the offender is a suitable candidate, an order that the offender be placed in a chemical dependency treatment program, prerelease center, or prerelease program for a period not to exceed 1 year;

(j) community service;

(k) home arrest as provided in Title 46, chapter 18, part 10;

(l) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116;

(m) participation in a day reporting program provided for in 53-1-203;

(n) participation in the 24/7 sobriety and drug monitoring program provided for in Title 44, chapter 4, part 12, for a violation of 61-8-465, a second or subsequent violation of 61-8-401, 61-8-406, or 61-8-411, or a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime or for a violation of any statute involving domestic abuse or the abuse or neglect of a minor if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime regardless of whether the charge or conviction was for a first, second, or subsequent violation of the statute;

(o) participation in a restorative justice program approved by court order and payment of a participation fee of up to \$150 for program expenses if the program agrees to accept the offender;

(p) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of the victim or society;

(q) with approval of the program and confirmation by the department of corrections that space is available, an order that the offender be placed in a residential treatment program; or

(r) any combination of the restrictions or conditions listed in this subsection (4).

(5) In addition to any other penalties imposed, if a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere and the sentencing judge finds that a victim, as defined in 46-18-243, has sustained a pecuniary loss, the sentencing judge shall, as part of the sentence, require payment of full restitution to the victim, as provided in 46-18-241

through 46-18-249, whether or not any part of the sentence is deferred or suspended.

(6) ~~(a) In~~ *Except as provided in subsection (6)(b), in addition to any of the penalties, restrictions, or conditions imposed pursuant to subsections (1) through (5), the sentencing judge may include the suspension of the license or driving privilege of the person to be imposed upon the failure to comply with any penalty, restriction, or condition of the sentence. A suspension of the license or driving privilege of the person must be accomplished as provided in 61-5-214 through 61-5-217.*

(b) A person's license or driving privilege may not be suspended due to nonpayment of fines, costs, or restitution.

(7) In imposing a sentence on an offender convicted of a sexual or violent offense, as defined in 46-23-502, the sentencing judge may not waive the registration requirement provided in Title 46, chapter 23, part 5.

(8) If a felony sentence includes probation, the department of corrections shall supervise the offender unless the court specifies otherwise.

(9) When imposing a sentence under this section that includes incarceration in a detention facility or the state prison, as defined in 53-30-101, the court shall provide credit for time served by the offender before trial or sentencing.

(10) As used in this section, "dangerous drug" has the meaning provided in 50-32-101."

Section 2. Section 61-5-214, MCA, is amended to read:

"61-5-214. Mandatory suspension for failure to appear or comply with criminal sentence – administrative fee – notice. (1) The department shall suspend the driver's license or driving privilege of a person upon receipt of a report from the court, certified under penalty of law and in a form prescribed by the department, that the person:

(a) failed to appear upon an issued complaint, summons, or court order after being charged with a misdemeanor violation under Title 45 or Title 61, chapters 3 through 10, or after posting a driver's license in lieu of bail as provided in 46-9-401(1)(e); or

(b) failed to comply with a sentence imposed pursuant to 46-18-201; ~~including but not limited to the payment of a fine, costs, or restitution as provided in 46-18-201(6).~~

(2) The suspension continues in effect until the court notifies the department that:

(a) the person has either appeared in court or complied with the sentence imposed pursuant to 46-18-201; ~~including the payment of any assessed fines, costs, or restitution; and~~

(b) the person has paid the court an administrative fee of \$25 if the court was holding the offender's driver's license in lieu of bail under 44-1-1102, 46-9-302, or 46-9-401.

(3) (a) Before a report is submitted under this section, a person must be given written notice that the failure to appear on a criminal charge or comply with a criminal sentence may result in the suspension of the person's driver's license or driving privilege. Initial notice of the possibility of a license suspension must either be included on the summons or complaint and notice to appear form given to the person when charges are initially filed or be contained in a court order, either hand-delivered to the person while in court or sent by certified mail, postage prepaid, to the most current address for that person received by or on record with the court.

(b) The initial notice must be followed by a written warning from the court, sent by first-class mail, advising the person that a license suspension is imminent unless, by a specified date, the failure to appear or comply is

remedied or the person appears before the court to contest the impending license suspension.

(4) The court shall deposit any administrative fee received under subsection (2)(b) in the appropriate county or city general fund.”

Section 3. Section 61-5-216, MCA, is amended to read:

“61-5-216. Reinstatement of license. Upon receipt of notification from the court that the operator has appeared; or posted the bond, ~~or paid the fine, costs, or restitution amounts~~ and has paid the administrative fee required under 61-5-214 and; if the reinstatement fee required under 61-2-107 or 61-5-218 has been paid, the department shall reinstate the license; unless the operator otherwise is not entitled to reinstatement.”

Section 4. Transition. (1) A person whose driver’s license is currently suspended because the person failed to comply with a court order for the payment of fines, fees, costs, or restitution may file a petition with the court that issued the order of suspension. If the court finds that the person’s license was suspended because of the failure to pay fines, fees, costs, or restitution and not for another legal reason, the court shall order the department of justice to reinstate the person’s driver’s license.

(2) The reinstatement fee required by 61-5-218(1) must be waived by the department for a person whose driver’s license is reinstated pursuant to [this act].

Section 5. Effective date. [This act] is effective on passage and approval.

Section 6. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to a person whose driver’s license was suspended prior to [the effective date of this act] due to failure to comply with a sentencing order that imposed a duty to pay fines, fees, or restitution in a criminal case.

Approved May 7, 2019

CHAPTER NO. 349

[HB 221]

AN ACT REVISING THE LICENSING REQUIREMENTS FOR FARM APPLICATORS OF PESTICIDES; PROVIDING THAT FARM APPLICATOR LICENSING EXAMINATION AND RECERTIFICATION REQUIREMENTS MAY BE FULFILLED ONLINE; REQUIRING REPORTING TO THE LEGISLATURE; AND AMENDING SECTIONS 80-8-105 AND 80-8-209, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 80-8-105, MCA, is amended to read:

“80-8-105. Rules. (1) The department may adopt by reference without a public hearing regulations adopted under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended. The department may, after a public hearing, adopt all rules necessary to carry out this chapter.

(2) The rules may prescribe methods of:

(a) registration, suspension or cancellation of registration, application, use or restricting use, prohibiting use, offering or exposing for sale of any pesticide;

(b) determining whether pesticides are highly toxic to humans;

(c) determining standards of coloring or discoloring for pesticides and subjecting pesticides to the requirements of 80-8-202;

(d) licensing commercial applicators, operators, and dealers, establishing methods of recordkeeping for applicators, operators, and dealers, and providing for the review of the records by the department’s authorized agent and the submission of the records to the department upon written request;

(e) issuing farm applicator special-use permits and the maintenance and submission of records by farm applicators issued special-use permits;

(f) collection, examination, and standard deviation from guarantee analysis and umpire analysis of pesticides and devices;

(g) operating and maintaining equipment used by applicators;

(h) developing examinations which must be held periodically throughout the state;

(i) establishing the form and content of all applications for licenses and permits;

(j) designating pesticides that may be sold at retail for home, yard, garden, and lawn use. The department may also limit retail sale of pesticides, up to a specific number of pounds or gallons and concentration which would be sublethal to humans and animals if small amounts of it were accidentally swallowed, inhaled, sprayed, or dusted on the skin.

(k) revoking licenses and permits;

(l) registering or controlling any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to the application or effect of that other pesticide, whether or not distributed in a package or container separate from that of a pesticide with which it is to be used;

(m) registering pesticide-fertilizer and other chemical blends or, instead of registration, establishing licensing, inspection, and fees for blending plants;

(n) establishing registration procedures for devices, with a fee not to exceed \$5 per type of device, specifying classes of devices to be registered and providing for additional requirements;

(o) imposing conditions for renewal of dealer, applicator, and operator licenses and permits, including ~~requelification~~ *recertification* training;

(p) establishing procedures for implementing and administering the civil penalties under 80-8-306;

(q) establishing fees for training courses and materials;

(r) establishing standards and procedures for administering a waste pesticide and pesticide container collection, disposal, and recycling program;

(s) establishing special fees on waste pesticides or pesticide containers collected under the waste pesticide and pesticide container collection, disposal, and recycling program. These fees may be based upon volume, type, classification, or other characteristics of a pesticide or a pesticide container and may include a credit for pesticide applicator, dealer, or operator license or permit fees.

(t) establishing standards for pesticide storage, pesticide mixing or loading sites, and bulk pesticide facilities.

(3) (a) Consistent with the provisions of Title 80, chapter 15, whenever the department finds that rules are necessary to carry out the purposes and intent of this chapter, the rules may relate to the time, place, manner, and method of registration, suspension or cancellation of registration, application, or selling of the pesticides, may restrict or prohibit use of pesticides in the state or in designated areas during specified periods of time, and must encompass all reasonable factors that the department considers necessary to prevent damage or injury to:

(i) persons, animals, crops, or pollinating insects from the effect of drift or careless application;

(ii) the environment;

(iii) plants, including forage plants;

(iv) wildlife;

(v) fish and other aquatic life.

(b) In issuing the rules, the department shall give consideration to pertinent research findings and recommendations of other agencies of this state or of the federal government.

(4) If the department finds that an emergency exists which requires immediate action with regard to the registration, use, or application of pesticides, the department may, without notice or hearing, issue necessary orders or rules to protect the public health, welfare, and safety. An order or rule issued under this subsection is effective for the period prescribed by the Montana Administrative Procedure Act. If the department determines that the emergency order or rule should remain in effect, a public hearing under 80-8-106 must be held within the above period to determine whether the order or rule should be adopted by the department.

(5) All rules and orders issued by the department must be made in writing and must be available at the department for public inspection. Except for orders establishing or changing rules of practice and procedure, all orders made and published by the department must include and be based upon written findings of fact. A copy of any rule or order certified by the department must be received in evidence in all courts of this state with the same effect as the original."

Section 2. Section 80-8-209, MCA, is amended to read:

"80-8-209. Farm applicators. (1) Farm applicators shall obtain a special-use permit prior to purchasing and using a pesticide designated by the department as a restricted-use pesticide. The fee for the permit is \$45. The special-use permit is effective for 5 calendar years. The department may establish a staggered years system of issuing permits. Revenue generated by the permit fee must be expended in the following manner:

(a) \$15 to the department to administer the permitting program;
(b) \$5 to the Montana state university-Bozeman extension service:
(i) to train extension service agents regarding farm pesticide applicator certification and training; and
(ii) to operate farm pesticide applicator certification and training programs; and
(c) \$25 to the cooperative extension service for conducting farm pesticide applicator certification and training programs.

(2) Restricted pesticides may not be utilized by farm applicators or their employees except for the purpose of producing or protecting an agricultural commodity on property owned, leased, or rented by the applicator.

(3) Farm applicators shall qualify for their first permit by either passing a graded written examination, or attending a training course approved by the department and then taking an ungraded written examination. The examinations and course must meet the minimum certification standards and procedures established by the environmental protection agency except as otherwise provided by this chapter.

(4) The department may require farm applicators to attend a mandatory training session and pass a written examination for those restricted pesticides that are extremely toxic or for which an effective antidote is not available. The department may require farm applicators handling these pesticides to maintain use records.

(5) The department shall require farm applicators to requalify for renewal of the 5-year permit by attending an approved training program. The department shall establish by rule a uniform system of administering the ~~requalification~~ *recertification* training program. *Online recertification training for farm applicators in order to fulfill all recertification requirements must be available to farm applicators. The department and the Montana state*

university-Bozeman extension service shall enter into a cooperative agreement to establish an online training program for farm applicators. The department may credit only training related to the standards set forth in subsection (4).

(6) Provisions of this chapter relating to certification of farm applicators do not apply to a farm applicator applying nonrestricted pesticides on the applicator's own land or on lands of neighbors if the farm applicator:

(a) operates farm property and operates and maintains pesticide application equipment primarily for the applicator's own use;

(b) is not regularly engaged in the business of applying pesticides for hire and does not represent to the public that the farm applicator is a pesticide applicator;

(c) operates pesticide application equipment only in the vicinity of the applicator's own property and for the accommodation of immediate neighbors.

(7) (a) The department shall assess an additional permit fee of \$15 on farm applicators to fund the waste pesticide and pesticide container collection, disposal, and recycling program.

(b) Farm applicators must be assessed the fee at the beginning of the next 5-year permit renewal period. The department may assess a prorated fee for a farm applicator becoming licensed within a 5-year permit renewal period.

(c) Fees collected under this subsection (7) must be deposited in the state special revenue account pursuant to 80-8-112.

(8) *On or before September 1, 2020, the department shall provide the economic affairs interim committee with a report in accordance with 5-11-210 on recertification requirements and efforts to initiate online training."*

Approved May 7, 2019

CHAPTER NO. 350

[HB 268]

AN ACT REVISING THE MONTANA CONCILIATION LAW; PROVIDING FOR THE STAYING OF DISSOLUTION, LEGAL SEPARATION, OR ANNULMENT PROCEEDINGS TO ALLOW THE PARTIES TO EXPLORE RECONCILIATION; AMENDING SECTIONS 40-3-102, 40-4-104, 40-4-107, AND 40-4-136, MCA; REPEALING SECTIONS 40-3-103, 40-3-104, 40-3-111, 40-3-112, 40-3-113, 40-3-114, 40-3-115, 40-3-116, 40-3-121, 40-3-122, 40-3-123, 40-3-124, 40-3-125, 40-3-126, AND 40-3-127, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Filing of stipulation. At any time after the filing of an action for dissolution, legal separation, or annulment, the parties may stipulate to stay the proceedings to allow the parties to explore a reconciliation of the marriage.

Section 2. Stipulation form and contents. A stipulation filed pursuant to this chapter must be signed by both parties and their counsel of record, if any, and include:

(1) a statement that both parties desire to stay the proceedings to allow the parties to pursue reconciliation;

(2) any agreements for support, parenting, or other matter related to the pending litigation that should continue in effect during the stay; and

(3) any other information the district court may by local rule require.

Section 3. No fees. No fee may be charged for filing the stipulation.

Section 4. Stay. The district court shall order the matter stayed and vacate any scheduling order without a hearing on the basis of the stipulation and may set a reasonable time and place for a hearing on the stipulation if the district court determines a hearing is necessary.

Section 5. Orders. (1) The district court shall stay the proceedings for as long as both parties consent to the stay.

(2) The district court shall issue an order adopting any interim agreement reduced to writing by the parties and filed with the district court or make any order regarding the conduct of the spouses, the parenting or support of minor children or spouses, and maintenance of the marital estate as the district court determines necessary and appropriate during the period of the stay.

(3) The parties shall file a status report with the district court not less than every 6 months. If the parties fail to file a status report with the district court for a period of 1 year or more, the district court may dismiss without prejudice the petition for dissolution, legal separation, or annulment.

(4) If either party files a request to dismiss the stay, the district court shall dismiss the stay and proceed with the dissolution of marriage, legal separation, or annulment proceeding.

Section 6. Section 40-3-102, MCA, is amended to read:

“40-3-102. Purposes. The purposes of this chapter are to protect the rights of children and to promote the public welfare by preserving, promoting, and protecting family life and the institution of matrimony and to provide means for the reconciliation of spouses ~~and the amicable settlement of domestic and family controversies~~ *without the deadlines associated with pending litigation.*”

Section 7. Section 40-4-104, MCA, is amended to read:

“40-4-104. Dissolution of marriage – legal separation. (1) The district court shall enter a decree of dissolution of marriage if:

(a) the court finds that one of the parties, at the time the action was commenced, was domiciled in this state, as provided in 25-2-118, or was stationed in this state while a member of the armed services and that the domicile or military presence has been maintained for 90 days preceding the filing of the action;

(b) the court finds that the marriage is irretrievably broken, which findings must be supported by evidence:

(i) that the parties have lived separate and apart for a period of more than 180 days preceding the commencement of this proceeding; or

(ii) that there is serious marital discord that adversely affects the attitude of one or both of the parties towards the marriage; *and*

~~(c) the court finds that the conciliation provisions of the Montana Conciliation Law and of 40-4-107 either do not apply or have been met; and~~

~~(d)~~(c) to the extent it has jurisdiction to do so, the court has considered, approved, or made provision for parenting, the support of any child entitled to support, the maintenance of either spouse, and the disposition of property.

(2) If a party requests a decree of legal separation rather than a decree of dissolution of marriage, the court shall grant the decree in that form unless the other party objects.”

Section 8. Section 40-4-107, MCA, is amended to read:

“40-4-107. Irretrievable breakdown. (1) If both of the parties by petition or otherwise have stated under oath or affirmation that the marriage is irretrievably broken or one of the parties has so stated and the other has not denied it, the court, after hearing, shall make a finding whether the marriage is irretrievably broken.

(2) If one of the parties has denied under oath or affirmation that the marriage is irretrievably broken, the court shall consider all relevant factors,

including the circumstances that gave rise to filing the petition and the prospect of reconciliation, and shall:

(a) make a finding whether the marriage is irretrievably broken; or

(b) continue the matter for further hearing not fewer than 30 or more than 60 days later or as soon thereafter as the matter may be reached on the court's calendar and may suggest to the parties that they seek counseling. ~~The court at the request of either party shall, or on its own motion may, order a conciliation conference.~~ At the adjourned hearing the court shall make a finding whether the marriage is irretrievably broken.

(3) A finding of irretrievable breakdown is a determination that there is no reasonable prospect of reconciliation.

(4) ~~Nothing in this section shall be interpreted to affect the provisions of chapter 3 of this title, known as the Montana Conciliation Law."~~

Section 9. Section 40-4-136, MCA, is amended to read:

"40-4-136. Brochure to describe proceedings – availability – distribution – contents and form. (1) Each district court shall make available a brochure, prepared and distributed by the attorney general, describing the requirements, nature, and effect of proceedings under 40-4-130 through 40-4-136.

(2) (a) In nontechnical language, the brochure must:

(i) state that it is in the best interests of the parties to consult an attorney regarding the dissolution of their marriage. The services of an attorney may be obtained through lawyer referral services, group or prepaid legal services, or legal aid organizations.

(ii) state that the brochure is not intended as a guide for self-representation in proceedings under 40-4-130 through 40-4-136 and should not be relied upon exclusively by the parties;

(iii) provide a concise summary of the provisions of 40-4-104 and 40-4-130 through 40-4-136;

~~(iv) describe the nature of services of the conciliation court, if available;~~

~~(v)(iv)~~ state that under the provisions of 40-4-130 through 40-4-136, neither party to the marriage may obtain maintenance from the other;

~~(vi)(v)~~ state in boldface type that, upon entry of final judgment, the parties' rights and obligations with respect to the marriage, including property and maintenance rights, are permanently adjudicated without right of appeal but that neither party is barred from instituting an action to set aside the final judgment for fraud, duress, accident, mistake, or other grounds recognized at law or in equity or to make a motion pursuant to the Montana Rules of Civil Procedure; and

~~(vii)(vi)~~ state that until final judgment is entered, the parties retain the status of married persons and cannot remarry.

(b) The brochure may include other matters that the attorney general considers appropriate."

Section 10. Repealer. The following sections of the Montana Code Annotated are repealed:

- 40-3-103. Use of shall and may.
- 40-3-104. Application.
- 40-3-111. Conciliation court -- jurisdiction.
- 40-3-112. Selection of judges.
- 40-3-113. Transfer of cases.
- 40-3-114. Budget.
- 40-3-115. Probation officers' duties.
- 40-3-116. Privacy of hearings.
- 40-3-121. Filing of petition.

- 40-3-122. Petition form and contents.
- 40-3-123. No fees.
- 40-3-124. Manner of conciliation.
- 40-3-125. Hearings.
- 40-3-126. Orders -- reconciliation agreement.
- 40-3-127. Dissolution, declaration of invalidity, or separate maintenance proceeding -- effect.

Section 11. Codification instruction. [Sections 1 through 5] are intended to be codified as an integral part of Title 40, chapter 3, part 1, and the provisions of Title 40, chapter 3, part 1, apply to [sections 1 through 5].

Section 12. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2019

CHAPTER NO. 351

[HB 281]

AN ACT REVISING LAWS RELATED TO NONRESIDENT WOLF HUNTING LICENSES; PROVIDING DISCOUNTS FOR CERTAIN LICENSE HOLDERS; AMENDING SECTIONS 87-2-524 AND 87-6-304, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-2-524, MCA, is amended to read:

“87-2-524. Class E-2–nonresident wolf license. (1) Except as otherwise provided in this chapter *and in subsection (2) of this section*, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued, upon payment of a fee of \$50, may receive a Class E-2 license that entitles a holder who is 12 years of age or older to hunt a wolf and possess the carcass of the wolf as authorized by commission rules.

(2) *A nonresident holder of a valid Class B-10 nonresident big game combination license or Class B-11 deer combination license may purchase the first Class E-2 license the person obtains in that license year for one-half the cost.*

(2)(3) A person who purchases a license pursuant to this section after August 31 may not use the license until 24 hours after the license is issued.

(3)(4) Fees collected pursuant to this section must be deposited and used in accordance with 87-1-623.”

Section 2. Section 87-6-304, MCA, is amended to read:

“87-6-304. License, permit, or tag offenses. (1) A person may not apply for, purchase, or possess more than one license, permit, or tag of any one class or more than one special license for any one species listed in 87-2-701. This provision does not apply to Class B-4, ~~or~~ Class B-5, *or Class E-2* licenses or to licenses issued under 87-2-104(2) for game management purposes. However, when more than one license, permit, or tag is authorized by the commission, a person may not apply for, purchase, or possess more licenses, permits, or tags than are authorized.

(2) The holder of a replacement license, permit, or tag may not make the replacement license, permit, or tag available for use by another person.

(3) Except as provided in 87-6-305(2), a person to whom a license or permit has been issued may not fish, hunt for any game bird or game animal, or attempt to hunt for any fur-bearing animal in this state unless the person is carrying the required license or permit at the time.

(4) A person may not refuse to exhibit a license or permit and the identification used in purchasing a license or permit for inspection to a warden or other officer requesting to see it.

(5) A person may not at any time alter or change a license in any material manner or loan or transfer any license to another person. A person other than the person to whom a license is issued may not use the license. A person may not attach the person's license to a game animal killed by another person.

(6) A person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, except as provided in subsection (7), the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(7) A person convicted under subsection (1), (2), or (5) of unlawfully procuring, possessing, using, or transferring a replacement license, permit, or tag shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture of bond or bail unless a court imposes a longer period. For each subsequent violation, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for the same period of time imposed by the court for the person's previous violation plus an additional 24 months."

Section 3. Effective date. [This act] is effective March 1, 2020.

Approved May 7, 2019

CHAPTER NO. 352

[HB 293]

AN ACT CREATING THE "MONTANA ECONOMIC DEVELOPMENT INDUSTRY ADVANCEMENT ACT" (MEDIA) TO PROVIDE INCOME TAX INCENTIVES FOR CERTAIN EXPENDITURES RELATED TO FILM, TELEVISION, AND RELATED MEDIA PRODUCTION; PROVIDING A TAX CREDIT TO PRODUCTION COMPANIES FOR CERTAIN MEDIA PRODUCTION EXPENDITURES MADE IN MONTANA; PROVIDING THAT THE CREDIT MAY BE CARRIED FORWARD OR TRANSFERRED TO A MONTANA TAXPAYER; REQUIRING THE DEPARTMENT OF REVENUE TO ADMINISTER THE TRANSFER OF THE TAX CREDITS; PROVIDING FOR A TRANSFER FEE; PROVIDING A TAX CREDIT FOR MONTANA WAGE EXPENDITURES INCURRED IN MONTANA; REQUIRING A PRODUCTION COMPANY TO APPLY TO THE DEPARTMENT OF COMMERCE FOR STATE CERTIFICATION TO QUALIFY FOR THE MEDIA PRODUCTION TAX CREDIT; REQUIRING AN APPLICATION AND AN APPLICATION FEE FOR A PRODUCTION COMPANY OR POSTPRODUCTION COMPANY TO CLAIM A TAX CREDIT; PROVIDING LIMITS ON THE AMOUNT OF CREDITS THAT MAY BE CLAIMED EACH YEAR; PROVIDING A STATUTORY APPROPRIATION; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE AND APPLICABILITY DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 12] may be cited as the “Montana Economic Development Industry Advancement Act”.

Section 2. Purpose. (1) The purpose of [sections 1 through 12] is to enhance Montana’s economy by expanding film and related media production in the state, by increasing job opportunities for a broad array of workers, and by promoting the growth of small businesses. The objectives of [sections 1 through 12] are to:

- (a) advertise Montana as open for business to qualifying projects;
- (b) develop a broad spectrum of high-paying jobs in the state;
- (c) encourage investment of funds to finance media production in the state;
- (d) expand opportunities for existing Montana small businesses and for new small businesses that provide goods and services to qualified projects; and
- (e) promote tourism in the state.

(2) The objectives in subsection (1) will best be achieved by offering tax incentives as provided in [sections 1 through 12].

Section 3. Definitions. As used in [sections 1 through 12], unless the context requires otherwise, the following definitions apply:

(1) “Affiliate” means a subsidiary of which more than 50% of the voting stock is owned directly by the parent corporation or another member of the Montana combined group.

(2) “Base investment” means the amount expended by a production company as production expenditures and compensation incurred in this state that are directly used in a state-certified production.

(3) (a) “Compensation” means Montana wages, salaries, commissions, payments to a loan-out company subject to the provisions of subsection (3)(c), union benefits, fringe benefits, and any other form of remuneration paid to employees for personal services performed in this state.

(b) The term does not include compensation paid that is less than the minimum wage described in 39-3-409.

(c) The term includes payments to a loan-out company by a production company if the production company withheld and remitted Montana income tax at the rate of 6.9% on all payments to the loan-out company for services performed in this state. The amount withheld is considered to have been withheld by the loan-out company on wages paid to its employees for services performed in this state. The amounts withheld must be allocated to the loan-out company’s employees based on the payments made to the loan-out company’s employees for services performed in Montana. For purposes of this chapter, loan-out company nonresident employees performing services in this state must be considered taxable nonresidents and the loan-out company is subject to income taxation in the tax year in which the loan-out company’s employees perform services in this state, notwithstanding any other provisions of Title 15. The withholding liability is subject to penalties and interest as provided in 15-1-216.

(d) With respect to a single crew member or production staff member, excluding an actor, director, producer, or writer, the portion of any compensation that exceeds \$500,000 for a single production is not included when calculating the base investment.

(e) All payments to a single employee and any legal entity in which the employee has any direct or indirect ownership interest are considered as having been paid to the employee and must be aggregated regardless of the means of payment or distribution.

(4) “Game platform” means the electronic delivery system used to launch or play an interactive game.

(5) “Game sequel” means an interactive game that builds on the theme of a previously released interactive game, is distinguished by a new title, and features objectives or characters that are recognizably different from those in the original game.

(6) (a) “Loan-out company” means a personal service company contracted with and retained by a production company to provide individual personnel who are not employees of the production company, including actors, directors, producers, writers, production designers, production managers, costume designers, directors of photography, editors, casting directors, first assistant directors, second unit directors, stunt coordinators, and similar personnel, for performance of services used directly in a qualified production activity.

(b) The term does not include persons retained by a production company to provide tangible property or outside independent contractor services, such as catering, construction, trailers, equipment, and transportation.

(7) “Multimarket commercial distribution” means paid commercial distribution that extends to markets outside the state.

(8) (a) “Postproduction company” means a company that:

- (i) maintains a business location physically located in this state;
- (ii) is engaged in qualified postproduction activities;
- (iii) meets the requirements of [section 5(4)] in the tax year for which the postproduction company claims the tax credit provided for in [section 9]; and
- (iv) has been approved by the department of commerce to claim the credit provided for in [section 9].

(b) The term does not include any form of business owned, affiliated, or controlled, in whole or in part, by a company or person that is in default on a tax obligation of the state, a loan made by the state, or a loan guaranteed by the state.

(9) “Prereleased interactive game” means a new game, the offering of an existing game on a new game platform, or a game sequel that is in the developmental stages of production and that may be available to individuals for testing purposes but is not generally made available or distributed to consumers or to the general public.

(10) (a) “Production company” means a company primarily engaged in qualified production activities that have been approved by the department of commerce.

(b) The term does not include any form of business owned, affiliated, or controlled, in whole or in part, by a company or person that is in default on a tax obligation of the state, a loan made by the state, or a loan guaranteed by the state.

(11) (a) “Production expenditure” means a preproduction or production expenditure incurred in Montana that is directly used for a qualified production activity including:

- (i) set construction and operation;
- (ii) wardrobes, makeup, accessories, and related services;
- (iii) costs associated with photography and sound synchronization expenditures, excluding license fees, incurred with Montana companies for sound recordings and musical compositions, lighting, or related services and materials;
- (iv) editing and related services;
- (v) rental of facilities and equipment;
- (vi) leasing of vehicles, whether to be photographed or to transport people, equipment, or materials;
- (vii) lodging costs, including hotel rooms and private housing rentals paid for by the production company;

(viii) per diem and living allowance paid to staff, cast, and crew members;
(ix) digital, film, or tape editing, film processing, transfers of film to tape or digital format, sound mixing, computer graphics services, special effects services, visual effects services, and animation services;

(x) airfare, if purchased through a Montana travel agency or travel company;

(xi) insurance costs and bonding, if purchased through a Montana insurance agency; and

(xii) other direct costs of producing the project in accordance with generally accepted entertainment industry practices and generally accepted accounting principles.

(b) The term does not include:

(i) compensation, which qualifies for the credit provided for in [section 7(3)(b)(i) through (3)(b)(iv)];

(ii) production expenditures for footage shot outside the state;

(iii) marketing;

(iv) story rights;

(v) distribution; or

(vi) postproduction expenditures.

(12) “Qualified Montana promotion” means a promotion of this state approved by the department of commerce and consisting of:

(a) a qualified movie production that includes a 5-second static or animated logo that promotes Montana in the end credits for the life of the project and that includes a link to the official state of Montana website on the project’s website;

(b) a qualified television production that includes an embedded 5-second Montana promotion during each broadcast worldwide for the life of the project and that includes a link to the official state of Montana website on the project’s website;

(c) a qualified music video that includes the Montana logo at the end of each video and within online promotions;

(d) a qualified interactive game that includes a 15-second Montana advertisement in units sold and embedded in online promotions; or

(e) a qualified television special or sports event for which the network provides complimentary placement of two 30-second spots per 30 minutes of qualifying television special or sports event programming promoting Montana destinations and provided by the department of commerce as provided for in [section 4(7)].

(13) “Qualified postproduction activity” means an activity performed in this state on a qualified production employing traditional, emerging, and new workflow techniques used in postproduction for picture, sound, and music editing, rerecording and mixing, visual effects, graphic design, original scoring, animation, musical composition, and other activities performed after initial production and including activities performed on previously produced and edited content.

(14) “Qualified postproduction wage” means wages incurred in this state directly in qualified postproduction activities for footage shot inside or outside this state.

(15) (a) “Qualified production” means a new film, video, or digital project including only feature films, series for theaters, television, or streaming, pilots, movies and scripted shows made for television or streaming, televised commercial advertisements, music videos, corporate videos, industrial films, production for website creation, television specials, sports events, video games, interactive entertainment, prereleased interactive games, and sound recording projects used in a feature film, series, pilot, or movie for television.

(b) The term includes projects shot, recorded, or originally created in short or long form, animation, and music, fixed on a delivery system, including film, videotape, computer disc, laser disc, and any element of the digital domain, from which the program is viewed or reproduced and which is intended for multimarket commercial distribution via a theater, video on demand, digital or fiber optic distribution platforms, digital video recording, a digital platform designed for distribution of interactive games, licensing for exhibition by individual television stations, groups of stations, networks, advertiser-supported sites, cable television stations, streaming services, or public broadcasting stations.

(c) The term does not include the coverage of news, local interest programming, instructional videos, commercials distributed only on the internet, infomercials, solicitation-based productions, nonscripted television programs, feature films consisting primarily of stock footage not originally recorded in Montana, or projects containing obscenity as defined in 45-8-201(2).

(16) (a) "Qualified production activity" means the production of a new film, video, or digital project in this state and approved by the department of commerce, including only feature films, series for theaters, television, or streaming, pilots, movies and scripted shows made for television or streaming, televised commercial advertisements, music videos, corporate videos, industrial films, production for website creation, television specials, sports events, video games, interactive entertainment, prereleased interactive games, and sound recording projects used in a feature film, series, pilot, or movie for television.

(b) The term includes the production of projects filmed or recorded in this state, in whole or in part and in short or long form, animation and music, fixed on a delivery system, including film, videotape, computer disc, laser disc, and any element of the digital domain, from which the program is viewed or reproduced and which is intended for multimarket commercial distribution via a theater, video on demand, digital or fiber optic distribution platforms, digital video recording, a digital platform designed for distribution of interactive games, licensing for exhibition by individual television stations, groups of stations, networks, advertiser-supported sites, cable television stations, streaming services, or public broadcasting stations.

(c) The term does not include the coverage of news, local interest programming, instructional videos, commercials distributed only on the internet, infomercials, solicitation-based productions, nonscripted television programs, or feature films consisting primarily of stock footage not originally recorded in Montana, projects containing obscenity as defined in 45-8-201(2), or projects not shot, recorded, or originally created in Montana.

(17) "Resident" has the meaning provided in 15-30-2101.

(18) "State-certified production" means a production engaged in qualified production activities and certified by the department of commerce as provided in [section 4].

(19) "Underserved area" means a county in this state in which 14% or more people of all ages are in poverty as determined by the U.S. bureau of the census estimates for the most current year available.

Section 4. Application for state certification. (1) (a) A production company may not receive the tax credit provided for in [section 7] unless the production has been certified by the department of commerce as provided in this section.

(b) A postproduction company may not receive the tax credit provided for in [section 9] unless the postproduction company has been certified by the department of commerce. The postproduction company shall submit an application that includes the information provided for in subsection (2)(a) for

the postproduction company. The application must be submitted in the year in which the postproduction plans to claim the credit and must be accompanied by a \$500 application fee. For the purposes of allocating the credit pursuant to [section 10], the application must contain an estimate of the amount of credit the postproduction company will claim. A postproduction company that plans to claim the credit in more than 1 tax year must apply for the credit each year but the application fee is only required in the first year of application. The department of commerce shall notify the applicant whether the postproduction company qualifies for the credit within 30 days of receipt of the application.

(2) An application, on a form provided by the department of commerce, must be submitted by the production company to the department of commerce before the start of principal photography. The application must be accompanied by a \$500 fee and must include:

(a) the production company's name, primary business address, telephone and fax numbers, incorporation information, federal tax identification number, and the name of at least one principal company officer or manager;

(b) the address and telephone and fax numbers of the production company's Montana office;

(c) the name of the line producer, unit production manager, or production accountant;

(d) a statement that the applicant meets the definition of production company in [section 3];

(e) the title of the production;

(f) the type of production;

(g) the proposed dates of production from preproduction to the start and completion of principal photography;

(h) a copy or synopsis of the production script;

(i) a list of production locations;

(j) a statement that the proposed production does not contain any material or performance that would be considered obscene under 45-8-201(2);

(k) a statement that the production will include a qualified Montana promotion; and

(l) a statement that the production company plans to make a base investment of \$350,000 or more or, if subsection (5) applies, that the production company plans to make a base investment of \$50,000 or more.

(3) The application must be signed by the manager, agent, president, vice president, or other person authorized to represent the production company.

(4) (a) The department of commerce shall notify the applicant within 30 days of receipt of the application as to whether the production qualifies as a state-certified production.

(b) If the department of commerce approves the application, the department of commerce shall provide a certification number to the applicant.

(5) The department of commerce may approve on a case-by-case basis an application for a commercial, music video, production for website creation, video game, interactive entertainment, or experimental or low-budget project that plans a base investment of less than \$350,000 but more than \$50,000.

(6) (a) If the department of commerce determines that the production company has violated the provisions of subsection (2)(j) or (2)(k), the department of commerce may revoke the state certification of the production. If the department of commerce revokes the state certification, the department of commerce shall notify the department of revenue. The production company has the right to a hearing before the department of commerce on the revocation of the state certification as provided in Title 2, chapter 4, part 6.

(b) The department of revenue shall recapture any tax credit claimed by a production company for which the state certification has been revoked. The recapture is subject to penalties and interest as provided in 15-1-216.

(c) If the production company transferred the tax credit, the recapture provisions of [section 8(7)] apply.

(7) The department of commerce shall design and furnish the Montana screen credit needed to qualify for the additional tax credit provided for in [section 7(3)(b)(viii)] and the programming promoting Montana destinations provided for in [section 3(12)(e)].

(8) The application fee must be deposited in an account in the state special revenue fund. The fee is statutorily appropriated to the department of commerce, as provided in 17-7-502, to administer the provisions of [sections 4 through 12].

(9) The department of commerce shall prescribe rules necessary to carry out the provisions of this section, including a procedure for review of the department of commerce's denial or revocation of state certification, the department's policies on the types of productions that may include the Montana screen credit, and the criteria for approving projects with a base investment of less than \$350,000.

Section 5. Submission of costs -- fee. (1) Prior to claiming the media production tax credit provided for in [section 7] or the tax credit for postproduction wages provided for in [section 9], a production company or postproduction company must be approved to claim the credit by the department of commerce and shall submit costs to the department of revenue as provided in this section. A taxpayer may not claim a credit provided for in [section 7] or [section 9] unless the costs have been approved as provided in this section. The submission of cost information must be accompanied by a fee as follows:

(a) for a production company with a base investment of less than \$350,000, \$500;

(b) for a production company with a base investment of \$350,000 or more, \$1,000;

(c) for a postproduction company claiming the credit provided for in [section 9], \$1,000.

(2) (a) A production company wishing to claim or transfer the tax credit for media production provided for in [section 7] shall submit to the department of revenue detailed information on production expenditures and compensation paid in connection with the state-certified production. Production expenditures and compensation paid must be submitted within 60 days of the completion of principal photography or, for a state-certified production for which expenditures will be claimed for multiple tax years, by the end of the tax year for which the credit will be claimed. If the production company fails to submit the required expenditures and compensation within 60 days, the tax credits may not be claimed until the following tax year.

(b) The information submitted by the production company must include:

(i) the certification number of the state-certified production, as provided for in [section 4(4)];

(ii) a description of the qualified production activities and the production expenditures, including information that demonstrates a base investment of \$350,000 or more or, if [section 4(5)] applies, a base investment of \$50,000 or more; and

(iii) if compensation is included in the production expenditures, a detailed listing of employee names, social security numbers, Montana wages, state of residence, and whether the employee is an enrolled student.

(3) (a) The department of revenue shall review the costs submitted pursuant to subsection (2) and provide to the department of commerce the amount of the media production tax credit calculated pursuant to [section 7] that may be claimed or transferred and the federal tax identification number of the production company.

(b) (i) Except as provided in subsection (3)(b)(ii), the department of revenue shall approve the media production tax credit if the state-certified production's base investment is \$350,000 or more.

(ii) The department of revenue shall approve the credit for a commercial, music video, production for website creation, video game, interactive entertainment, or experimental or low-budget project certified by the department of commerce pursuant to [section 4(5)] if the production's base investment is \$50,000 or more.

(c) A credit may be approved as provided in this subsection (3) only if principal photography began within 1 year of the date the department of commerce certified the production pursuant to [section 4].

(4) A postproduction company wishing to claim the tax credit for qualified postproduction wages provided for in [section 9] shall submit to the department of revenue a detailed listing of employee names, social security numbers, and Montana wages.

(5) A production company or postproduction company that submits costs pursuant to this section to claim the credit provided for in [section 7] or [section 9] shall submit the production expenditure verification report provided for in [section 6] by the due date provided for in 15-30-2604 without extension.

(6) The identity and social security number or federal tax identification number of the employees for which compensation information is submitted pursuant to this section are subject to the provisions of 15-30-2618 and 15-31-511.

(7) The fee provided for in subsection (1) must be deposited in the state special revenue fund. The fee is statutorily appropriated, as provided in 17-7-502, to the department of revenue to administer the provisions of [sections 7 through 9].

Section 6. Production expenditure verification report. (1) A production company or postproduction company that claims the credit provided for in [section 7] or [section 9] shall submit a production expenditure verification report to the department of revenue as provided in this section.

(2) The production expenditure verification report must:

(a) be issued by a certified public accountant who is unrelated to the production company or postproduction company and include a certification to that effect;

(b) be performed in accordance with the accounting standards generally accepted in the United States;

(c) be addressed to the person who engaged the accountant with a copy addressed to the production company, postproduction company, or person who applies for the credit provided for in [section 7];

(d) include the accountant's name, address, and telephone number;

(e) include the date of completion of the accountant's work; and

(f) contain a statement of acknowledgment by the accountant that the state is relying on the report to issue tax credits.

(3) The contents of the report must include:

(a) verification of the accuracy of the production expenditures and compensation submitted pursuant to [section 5(2)] or the wages and compensation submitted pursuant to [section 5(4)];

(b) an opinion from the accountant stating that there are no related party transactions or that material related party transactions are properly reported and accounted for, adequately disclosed, and explained in the report; and

(c) a statement that the submission of the production expenditures and compensation presents fairly, in all material aspects, the production expenditures, postproduction wages, and compensation expended in Montana pursuant to the provisions of [sections 1 through 12].

(4) All costs associated with the report are the obligation of the production company or postproduction company.

Section 7. Tax credit for media production. (1) Subject to [section 10], a production company and its affiliates are allowed a credit against the taxes imposed by chapter 30 and this chapter for investments in a state-certified production approved by the department of commerce as provided in [sections 4 and 5]. The credit is for the base investment made up to 6 months before state certification through completion of the project. The credit must be claimed for the period July 1, 2019, through December 31, 2020, in which the production expenditures were incurred or the compensation was paid unless the credit is transferred to the next tax year because the limits provided for in [section 10] have been met. For periods after December 31, 2020, the credit must be claimed for the year in which the production expenditures were incurred or the compensation was paid unless the credit is transferred to the next tax year because the limits provided for in [section 10] have been met.

(2) To claim the credit provided for in this section:

(a) the production company or its affiliate must have applied to the department of commerce as provided in [section 5] and been approved to claim or transfer the credit; or

(b) the taxpayer must be the entity to which a credit approved pursuant to [section 5] and this section was transferred.

(3) (a) The credit is equal to 20% of the production expenditures in the state in the tax year, plus the additional amounts provided for in subsection (3)(b), but may not in the aggregate exceed 35% of the production company's base investment in the tax year.

(b) Additional amounts for which the credit may be claimed are:

(i) 25% of the compensation paid per production or season of a television series to each crew member or production staff member who is a resident, not to exceed a \$150,000 credit per person;

(ii) 15% of the compensation paid per production or season of a television series to each crew member or production staff member who is not a resident but for whom Montana income taxes have been withheld, not to exceed a \$150,000 credit per person;

(iii) 20% of the first \$7.5 million of compensation paid per production or season of a television series to each actor, director, producer, or writer for whom Montana income taxes have been withheld;

(iv) 30% of compensation paid per production or season of a television series to a student enrolled in a Montana college or university who works on the production for college credit. The credit may not exceed \$50,000 per student. If a credit provided for in this subsection (3)(b)(iv) is claimed for an enrolled student, the credits provided for in subsections (3)(b)(i) through (3)(b)(iii) may not be claimed for the same enrolled student.

(v) an additional 10% of payments made to a Montana college or university for stage rentals, equipment rentals, or location fees for filming on campus;

(vi) an additional 10% of all in-studio facility and equipment rental expenditures incurred in this state for a production that rents a studio for 20 days or more;

(vii) an additional 5% for production expenditures made in an underserved area; and

(viii) an additional 5% of the base investment in the state if the state-certified production includes a Montana screen credit furnished by the state as provided in [section 4(7)].

(4) If one production company makes a production expenditure to hire another production company to produce a project or contribute elements of a project for pay, the hired production company is considered a service provider for the hiring company and the hiring company is entitled to claim the credit for all expenditures that are incurred in the state.

(5) Any unused credit may be carried forward for 5 years or may be transferred as provided in [section 8]. The credit allowed by this section, including a transferred credit, may not be refunded if the taxpayer has a tax liability less than the amount of the credit.

(6) A taxpayer claiming a credit shall include with the tax return the following information:

- (a) the amount of tax credit claimed and transferred for the tax year;
- (b) the amount of the tax credit previously claimed or transferred;
- (c) the amount of the tax credit carried over from a previous tax year; and
- (d) the amount of the tax credit to be carried over to a subsequent tax year.

(7) (a) A taxpayer claiming the credit provided for in this section must claim the credit as provided in subsection (7)(b).

(b) (i) An entity taxed as a corporation for Montana income tax purposes shall claim the credit on its corporate income tax return.

(ii) Individuals, estates, and trusts shall claim a credit allowed under this section on their individual income tax return.

(iii) An entity not taxed as a corporation shall claim the credit allowed under this section on member or partner returns as follows:

(A) corporate partners or members shall claim their share of the credit on their corporate income tax returns;

(B) individual partners or members shall claim their share of the credit on their individual income tax returns; and

(C) partners or members that are estates or trusts shall claim their share of the credit on their fiduciary income tax returns.

(c) In order to prevent disguised sales of the credit provided for in this section, allocations of credits through partnership and membership agreements may not be recognized unless they have a substantial economic effect as that term is defined in 26 U.S.C. 704 and applicable federal regulations.

(8) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has included the amount of the production expenditure or compensation on which the amount of the credit was computed as a deduction under 15-30-2131 or 15-31-114.

Section 8. Transfer of tax credit for media production – transfer fee. (1) A tax credit for a state-certified production approved as provided in [sections 4 and 5] and calculated pursuant to [section 7] but not claimed by the production company may be transferred in whole or in part by the production company to another Montana taxpayer as provided in this section.

(2) A credit may be transferred only once each tax year. The transfer may involve one or more transferees.

(3) A transferee must acquire the credit for a minimum of 85% of its value.

(4) A transferred credit is subject to the carryforward period from the year in which the production company was eligible to claim the credit.

(5) A production company or taxpayer that transfers a tax credit shall submit to the department of revenue a written notification of the transfer of

the tax credit within 30 days after the transfer. The notification must include the following information:

- (a) the certification number of the state-certified production;
 - (b) the tax credit balance before and after the transfer;
 - (c) the tax identification number of the taxpayer to whom the credit was transferred;
 - (d) the amount of credit transferred; and
 - (e) any other information required by the department of revenue.
- (6) The notification of the transfer of a tax credit must be accompanied by a fee equal to 2% of the value of the tax credit transferred. The transfer fee must be deposited in the general fund.

(7) A transferee has rights to claim the tax credit available to the production company or previous transferee only at the time of the transfer. If a production company or transferee did not have rights to claim the credit at the time of transfer, the department of revenue shall disallow the credit claimed by the taxpayer or recapture the credit. The transferee's recourse is against the production company or previous transferee and not against the state of Montana.

(8) The department shall administer the transfer of credits pursuant to this section.

Section 9. Tax credit for postproduction wages. (1) A postproduction company that has incurred qualified postproduction wages in the tax year is allowed a credit against the taxes imposed by chapter 30 and this chapter if the taxpayer applies to the department of commerce as provided in [section 4] and to the department of revenue as provided in [section 5] and is approved to claim the credit.

(2) The tax credit is equal to 25% of qualified postproduction wages incurred in the state.

(3) A tax credit claimed under this section may not exceed the postproduction company's total compensation paid to employees working in this state for the tax year in which the credit is claimed.

(4) The tax credit allowed by this section may not be refunded if the taxpayer has no tax liability. Any unused credit may be carried forward for 5 years.

(5) A taxpayer claiming a credit shall include with the tax return the following information:

- (a) the amount of tax credit claimed for the tax year;
 - (b) the amount of the tax credit previously claimed;
 - (c) the amount of the tax credit carried over from a previous tax year; and
 - (d) the amount of the tax credit to be carried over to a subsequent tax year.
- (6) (a) A taxpayer claiming the credit provided for in this section must claim the credit as provided in subsection (6)(b).

(b) (i) An entity taxed as a corporation for Montana income tax purposes shall claim the credit on its corporate income tax return.

(ii) Individuals, estates, and trusts shall claim a credit allowed under this section on their individual income tax return.

(iii) An entity not taxed as a corporation shall claim the credit allowed under this section on member or partner returns as follows:

(A) corporate partners or members shall claim their share of the credit on their corporate income tax returns;

(B) individual partners or members shall claim their share of the credit on their individual income tax returns; and

(C) partners or members that are estates or trusts shall claim their share of the credit on their fiduciary income tax returns.

(c) In order to prevent disguised sales of the credit provided for in this section, allocations of credits through partnership and membership agreements may not be recognized unless they have a substantial economic effect as that term is defined in 26 U.S.C. 704 and applicable federal regulations.

(7) A postproduction company may not claim a credit under this section for production expenditures for which the media production credit provided for in [section 7] is claimed.

Section 10. Limitation of tax credits. (1) (a) The department of commerce may grant to applicants pursuant to [section 4] the authority to apply for the tax credits provided for in [sections 7 and 9].

(b) The authorization by the department of commerce to apply for a credit does not guarantee the credit. A taxpayer authorized to apply for a credit pursuant to [section 4] and this section must meet the requirements of [sections 5 through 9] and subsection (2) of this section.

(c) The department of commerce shall make reasonable efforts to post on its website the amount of tax credits available and not yet allocated.

(2) (a) Total claims for the tax credits provided for in [sections 7 and 9] may not exceed \$10 million per calendar year.

(b) Claims must be allowed on a first-come, first-served basis. A taxpayer whose claim for a credit is disallowed because the calendar year limit has been reached may use the credit in the next calendar year but the transfer of the credit to the next calendar year does not extend the carry forward periods provided for in [section 7(5)] or [section 9(4)].

(c) If a claim is disallowed because the calendar year limit has been reached, the department of revenue may waive penalties and interest pursuant to 15-1-216.

(d) The department of revenue shall make reasonable efforts to post on its website the amount of credits available and not yet claimed.

Section 11. Report to legislature. (1) The department of commerce shall provide a written report about the economic impact of the tax credits provided for in [sections 7 through 9] to the revenue and transportation interim committee, provided for in 5-5-227. The report must be provided no less than 6 months before the start of the 2021 regular legislative session and, pursuant to 5-11-210, every 2 years thereafter, and must be posted on the department of commerce's website.

(2) The report must include:

- (a) the overall impact of the tax credits;
- (b) the dollar amount of tax credits issued;
- (c) the number of net new jobs created;
- (d) the amount of compensation paid;
- (e) the economic impact of the film industry in the state;
- (f) the names of all state certified productions eligible to claim tax credits;

and

(g) any other information that describes the impact of the tax credits.

(3) The department of commerce shall contract with a research organization to prepare the report required by this section. The research organization may not be affiliated with the film industry or with the department of commerce. The department may use the fees collected pursuant to [section 4] or other funding to pay for the report.

(4) The department of commerce shall make recommendations to the revenue and transportation interim committee on whether to make changes to the tax credits provided for in [sections 7 through 9], including changes to the cap provided for in [section 10]. The revenue and transportation interim committee may make recommendations to the legislature based on

the information contained in the report and the department of commerce's recommendations.

Section 12. Rulemaking. (1) The department of commerce and the department of revenue shall adopt rules necessary to implement and administer [sections 1 through 12]. The rules shall include procedures for:

(a) determining production expenditures allowed under [section 7] and postproduction wages allowed under [section 9];

(b) administering the transfer of credits and the registration and reporting requirements of credit brokers pursuant to [section 8]; and

(c) reviewing taxpayer compliance with the provisions of [section 4].

(2) The department of revenue and the department of commerce shall jointly adopt rules related to the content of the definitions in [section 3].

Section 13. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; [section 4]; [section 5]; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-416; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3

and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023, and pursuant to sec. 2, Ch. 340, L. 2017, and sec. 32, Ch. 429, L. 2017, is void for fiscal years 2018 and 2019; and pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027.”

Section 14. Codification instruction. [Sections 1 through 12] are intended to be codified as an integral part of Title 15, chapter 31, and the provisions of Title 15, chapter 31, apply to [sections 1 through 12].

Section 15. Coordination instruction. If both House Bill No. 723 and [this act] are passed and approved, then [section 1(5) of House Bill No. 723] must be amended by including the underlined language as follows:

“(5) The following tax credits expire on December 31, 2029:

(a) the biodiesel or biolubricant production facility credit provided for in 15-32-702;

(b) the biodiesel blending and storage credit provided for in 15-32-703;

(c) the adoption tax credit provided for in 15-30-2364;

(d) the credit for providing temporary emergency lodging provided for in 15-30-2381 and 15-31-171;

(e) the credit for hiring a registered apprentice or veteran apprentice provided for in 15-30-2357 and 15-31-173; and

(f) the earned income tax credit provided for in 15-30-2318; and

(g) *the media production and postproduction credits provided for in [section 7 of House Bill No. 293] and [section 9 of House Bill No. 293].”*

Section 16. Coordination instruction. If both House Bill No. 723 and [this act] are passed and approved, then [section 7(1) of this act] must be amended as follows:

“(1) Subject to [section 10] and through the tax year ending December 31, 2029, a production company and its affiliates are allowed a credit against the taxes imposed by chapter 30 and this chapter for investments in a state-certified production approved by the department of commerce as provided in [sections 4 and 5]. The credit is for the base investment made up to 6 months before state certification through completion of the project. The credit must be claimed for

the period July 1, 2019, through December 31, 2020, in which the production expenditures were incurred or the compensation was paid unless the credit is transferred to the next tax year because the limits provided for in [section 10] have been met. For periods after December 31, 2020, the credit must be claimed for the year in which the production expenditures were incurred or the compensation was paid unless the credit is transferred to the next tax year because the limits provided for in [section 10] have been met.”

Section 17. Coordination instruction. If both House Bill No. 723 and [this act] are passed and approved, then [section 9(1) of this act] must be amended as follows:

“(1) *A Through the tax year ending December 31, 2029, a postproduction company that has incurred qualified postproduction wages in the tax year is allowed a credit against the taxes imposed by chapter 30 and this chapter if:*”

Section 18. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 19. Effective date. [This act] is effective July 1, 2019.

Section 20. Applicability. (1) Except as provided in subsection (2), [this act] applies to tax years beginning after December 31, 2020.

(2) The tax credit in [section 7] applies after June 30, 2019, as provided in [section 7(1)].

Approved May 7, 2019

CHAPTER NO. 353

[HB 355]

AN ACT GENERALLY REVISING LAWS RELATED TO MOTORIZED RECREATION; ESTABLISHING THE SUMMER MOTORIZED RECREATION TRAIL GRANT PROGRAM; ESTABLISHING A SUMMER MOTORIZED RECREATION TRAIL PASS FOR RESIDENTS; ESTABLISHING THE SUMMER MOTORIZED RECREATION TRAIL PASS ACCOUNT; PROVIDING GRANTS; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; REVISING NONRESIDENT TEMPORARY-USE SNOWMOBILE PERMIT FEES; REVISING SNOWMOBILE TRAIL PASS FEES; REVISING NONRESIDENT TEMPORARY USE PERMIT FEES FOR OFF-HIGHWAY VEHICLES; ALLOWING DISCOUNTED REGISTRATION OF CERTAIN OFF-HIGHWAY VEHICLES, MOTORCYCLES, QUADRICYCLES, AND SNOWMOBILES; AND AMENDING SECTIONS 23-2-101, 23-2-102, 23-2-103, 23-2-615, 23-2-636, 23-2-814, AND 61-3-321, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. For the purposes of this part, the following definitions apply:

(1) “Department” means the department of fish, wildlife, and parks.

(2) “Motorized equipment” means any motorized equipment authorized to be used on public lands by the land management agency with jurisdiction over those lands.

(3) “Summer motorized recreation trail” means a trail designated as open to motorized use and approved for inclusion in the summer motorized recreation trail grant program established in [section 4] by the land management agency with jurisdiction over the trail.

Section 2. Summer motorized recreation trail pass for residents – fees – penalties. (1) Except as provided in subsection (5) of this section, motorized equipment registered in Montana pursuant to 61-3-321 may not be operated on a summer motorized recreation trail unless a summer motorized recreation trail pass is affixed in a conspicuous place to the motorized equipment.

(2) The cost of a summer motorized recreation trail pass is \$20. The trail pass is valid for 2 years and expires on December 31 of the second calendar year.

(3) The trail pass is not transferable. However, if motorized equipment is sold with an affixed trail pass, the trail pass may continue to be used by the purchaser until the pass expires.

(4) Application for the issuance of the trail pass must be made at locations and on forms prescribed by the department. The forms must include but are not limited to:

- (a) the applicant's name and permanent address;
- (b) a physical description of the motorized equipment; and
- (c) proof of the motorized equipment's registration in Montana.

(5) A person renting motorized equipment registered pursuant to 61-3-321 is not required to purchase a trail pass but shall carry proof of rental if operating the motorized equipment on a summer motorized recreation trail.

(6) Money collected by payment of fees under this section must be used as follows:

(a) \$2 must be remitted to the vendor who sold the trail pass if the vendor is not the department; and

(b) the remainder must be deposited in the summer motorized recreation trail account established in [section 3].

(7) The failure to affix the trail pass as required by this section or the making of false statements in obtaining the trail pass is a misdemeanor, punishable by a fine of not less than \$25 or more than \$100. All fines collected under this section must be transmitted to the department of revenue for deposit in the state general fund.

Section 3. Summer motorized recreation trail account. (1) There is a summer motorized recreation trail account in the state special revenue fund established in 17-2-102.

(2) Pursuant to [section 2], revenue collected from the sale of summer motorized recreation trail passes must be deposited in the account and used by the department pursuant to [section 4] and this subsection (2):

(a) up to 5% deposited in the account each year may be used by the department for administrative costs;

(b) \$1 from each trail pass sold pursuant to [section 2] must be granted for mitigation and eradication of noxious weeds along summer motorized recreation trails; and

(c) the remainder must be granted for designation, maintenance, and improvement of summer motorized recreation trails.

(3) Interest and income earned on the account and any unspent or unencumbered money in the account at the end of a fiscal year must remain in the account.

Section 4. Summer motorized recreation trail grant program – rulemaking. (1) There is a summer motorized recreation trail grant program by which the department may grant funds deposited in the account established in [section 3] to private clubs and organizations for the following purposes:

(a) to mark or sign, maintain, and improve summer motorized recreation trails; and

(b) to mitigate and eradicate noxious weeds along summer motorized recreation trails.

(2) In utilizing funds pursuant to this section, the department shall consider the recommendations of the state trails advisory committee established pursuant to 23 U.S.C. 206.

(3) The department may adopt rules to implement the provisions of [sections 1 through 4].

Section 5. Section 23-2-101, MCA, is amended to read:

"23-2-101. Legislative findings – purpose. Montana is uniquely endowed with scenic landscapes and areas rich in recreational value. This outdoor heritage enriches the lives of citizens, attracts new residents and businesses to the state, and is of major significance to the expanding tourist industry. It is the purpose of this part to give authority to the department of fish, wildlife, and parks to plan and develop outdoor recreational resources in the state, ~~which~~ *That authority shall permit permits* receiving and expending funds, including federal grants, for this purpose."

Section 6. Section 23-2-102, MCA, is amended to read:

"23-2-102. Department of fish, wildlife, and parks to implement federal act. The department of fish, wildlife, and parks is hereby designated as the state agency to represent and act for the state for the purpose of implementing the Land and Water Conservation Fund Act of 1965."

Section 7. Section 23-2-103, MCA, is amended to read:

"23-2-103. Compliance with federal act authorized – powers of department. The department of fish, wildlife, and parks shall do those things necessary to comply with the provisions of the Land and Water Conservation Fund Act of 1965. Among other things, the department of fish, wildlife, and parks may:

(1) prepare a comprehensive statewide outdoor recreational plan ~~which shall that must~~ contain an evaluation of the demand for and supply of outdoor recreational resources and facilities in Montana and a program for implementation of the plan;

(2) accept and administer ~~moneys~~ *money* paid by the secretary of the interior for approved projects;

(3) contract with other state agencies, cities, counties, and other political subdivisions of the state, private organizations, and agencies of the federal government;

(4) acquire, other than by eminent domain, and develop outdoor recreational areas and facilities ~~and as well as~~ land and waters and interests in land and waters for such areas and facilities;

(5) for the purpose of implementing the Land and Water Conservation Fund Act of 1965, coordinate its activities with and represent the interests of all agencies of state, city, county, and other governmental units with outdoor recreational responsibilities."

Section 8. Section 23-2-615, MCA, is amended to read:

"23-2-615. Nonresident temporary-use snowmobile permits – use of fees. (1) The requirements for a nonresident temporary-use snowmobile permit are as follows:

(a) Application for the issuance of the permit must be made at locations and upon forms prescribed by the department. The forms must include but are not limited to:

(i) the applicant's name and permanent address; and

(ii) an affidavit declaring the nonresidency of the applicant.

(b) Upon submission of the application and a fee of ~~\$25~~ *\$35*, of which 50 cents is a search and rescue surcharge, a nonresident temporary-use

snowmobile sticker must be issued. The sticker must be permanently affixed in a conspicuous manner on the snowmobile.

(2) The temporary-use snowmobile permit is valid during the fiscal year in which it is issued.

(3) The temporary-use snowmobile permit is not proof of ownership, and a certificate of title may not be issued.

(4) (a) A nonresident temporary-use snowmobile permit is not required for a snowmobile that qualifies as a racing snowmobile under 23-2-622.

(b) A nonresident temporary-use snowmobile permit is not required for a snowmobile that will be used only on trails that are managed jointly by agreement between Montana and another state.

(5) Except as provided in subsection (1)(b), money collected by payment of fees under this section must be deposited in the state special revenue fund to the credit of the department and used as follows:

(a) \$11 must be expended in areas that are impacted by nonresident snowmobile use to assist in offsetting snowmobile trail grooming costs;

(b) \$2.50 must be used by the department for the enforcement of snowmobile laws pursuant to 23-2-641;

(c) \$1 must be remitted to the license agent who sold the nonresident temporary-use snowmobile permit; and

(d) ~~\$10~~ \$20 must be used by the department for the statewide snowmobile trail grooming program.

(6) The failure to display the permit as required by this section or the making of false statements in obtaining the permit is a misdemeanor, punishable by a fine of not less than \$25 or more than \$100."

Section 9. Section 23-2-636, MCA, is amended to read:

"23-2-636. Snowmobile trail pass -- fees -- penalties. (1) Except for snowmobiles for which a nonresident temporary-use permit is purchased pursuant to 23-2-615 and except as provided in subsection (4), to be eligible to operate a snowmobile or use motorized equipment or mechanical transport in snowmobile areas groomed with a grant or funding assistance awarded by the department, a person shall first purchase a snowmobile trail pass for: ~~\$18~~

(a) \$20, if the snowmobile or motorized equipment is registered in Montana pursuant to 61-3-321 or the person operating the mechanical transport is a resident as determined under 1-1-215; or

(b) \$35, if the motorized equipment is exempt from registration in Montana pursuant to 61-3-321 or the person operating the mechanical transport is not a resident as determined under 1-1-215. This subsection (1)(b) does not apply to motorized equipment exempt from registration in Montana pursuant to 61-3-321(14).

(2) The trail pass is valid for 3 2 years from the date of purchase and must be affixed in a conspicuous place to each snowmobile, motorized equipment, or mechanical transport used. A trail pass expires on June 30 of the ~~third~~ second year and is not transferable between a snowmobile, motorized equipment, or mechanical transport. If a snowmobile is sold ~~by a dealer~~ with an affixed trail pass, the trail pass may continue to be used by the purchaser of the snowmobile until it expires.

(3) Application for the issuance of the trail pass must be made at locations and on forms prescribed by the department.

(4) A person renting a snowmobile registered pursuant to 61-3-321~~(11)(b)~~(11)(c) is not required to purchase a snowmobile trail pass but shall carry proof of rental if operating a snowmobile in a snowmobile area that otherwise requires a trail pass pursuant to subsection (1).

(5) Money collected by payment of fees under this section must be deposited in the state special revenue fund to the credit of the department and used as follows:

(a) \$2 must be remitted to the vendor who sold the trail pass if the vendor is not the department;

(b) \$1 must be used for the enforcement of snowmobile laws pursuant to this part; and

(c) the remainder must be used by the department to award grants or funding assistance to snowmobile area operators for the grooming of snowmobile areas.

(6) The failure to affix the trail pass as required by this section or the making of false statements in obtaining the trail pass is a misdemeanor, punishable by a fine of not less than \$25 or more than \$100.

(7) To be eligible for a snowmobile trail pass pursuant to this section, an all-terrain vehicle must have a wheel base of less than 50 inches in width and be equipped with tracks instead of wheels while operating on a groomed snowmobile trail administered by the department.

(8) For the purposes of this section:

(a) "motorized equipment" means any motorized equipment allowed by a snowmobile area operator; and

(b) "snowmobile" includes snowmobiles used for demonstration purposes by snowmobile dealers."

Section 10. Section 23-2-814, MCA, is amended to read:

"23-2-814. Nonresident temporary-use permits – use of fees.

(1) Except as provided in 23-2-802, an off-highway vehicle that is owned by a nonresident may not be operated by a person in Montana unless a nonresident temporary-use permit is obtained.

(2) The requirements pertaining to a nonresident temporary-use permit for an off-highway vehicle are as follows:

(a) Application for the issuance of the permit must be made at locations and ~~upon~~ *on* forms prescribed by the department of fish, wildlife, and parks. The forms must include but are not limited to:

(i) the applicant's name and permanent address;

(ii) the make, model, year, and serial number of the off-highway vehicle; and

(iii) an affidavit declaring the nonresidency of the applicant.

(b) Upon submission of the application and a fee of ~~\$27~~ *\$35*, of which ~~\$1~~ *\$2* is a search and rescue surcharge, a nonresident off-highway vehicle temporary-use sticker must be issued. The sticker must be displayed in a conspicuous manner on the off-highway vehicle. The sticker is the temporary-use permit.

(3) The temporary-use permit is valid for the calendar year designated on the permit.

(4) The permit is not proof of ownership, and a certificate of title may not be issued.

(5) (a) Except as provided in subsection (5)(b), money collected by payment of fees under this section must be deposited in the state special revenue fund to the credit of the department of fish, wildlife, and parks and used as follows:

(i) ~~\$15~~ *\$27.50* must be expended to maintain off-highway vehicle trails;

(ii) *\$2.50* must be used by the department for enforcement of off-highway vehicle laws pursuant to 23-2-806;

(iii) ~~\$1~~ *\$2* must be remitted to the license agent who sold the nonresident temporary-use permit;

~~(iv) \$6 must be used by the department for off-highway vehicle safety education; and~~

(iv) ~~\$1.50~~ \$1 must be used by the department to mitigate and eradicate noxious weeds along off-highway vehicle trails.

(b) The ~~\$1~~ \$2 search and rescue surcharge must be deposited in the account established in 10-3-801 for use as provided in that section.

(6) Failure to display the permit as required by this section or making false statements in obtaining the permit is a misdemeanor and is punishable by a fine of not less than \$25 or more than \$100. All fines collected under this section must be transmitted to the department of revenue for deposit in the state general fund."

Section 11. Section 61-3-321, MCA, is amended to read:

"61-3-321. Registration fees of vehicles and vessels – certain vehicles exempt from registration fees – disposition of fees.

(1) Except as otherwise provided in this section, registration fees must be paid upon registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers, semitrailers, and pole trailers as provided in subsections (2) through (20).

(2) (a) Except as provided in subsection (2)(b), unless a light vehicle is permanently registered under 61-3-562, the annual registration fee for light vehicles, trucks, and buses that weigh 1 ton or less and for logging trucks that weigh 1 ton or less is as follows:

- (i) if the vehicle is 4 or less years old, \$217;
- (ii) if the vehicle is 5 through 10 years old, \$87; and
- (iii) if the vehicle is 11 or more years old, \$28.

(b) For a light vehicle with a manufacturer's suggested retail price of more than \$150,000 that is 10 years old or less, the annual registration fee is the amount provided for in subsection (2)(a) plus \$825.

(3) (a) Except as provided in subsection (15), the one-time registration fee based on the declared weight of a trailer, semitrailer, or pole trailer is as follows:

- (i) if the declared weight is less than 6,000 pounds, \$61.25; or
- (ii) if the declared weight is 6,000 pounds or more, \$148.25.

(b) If a trailer, semitrailer, or pole trailer is registered under 61-3-701, the fees required in subsection (3)(a) must be paid annually.

(4) Except as provided in subsection (15), the one-time registration fee for motor vehicles owned and operated solely as collector's items pursuant to 61-3-411, based on the weight of the vehicle, is as follows:

- (a) 2,850 pounds and over, \$10; and
- (b) under 2,850 pounds, \$5.

(5) (a) Except as provided in ~~subsection~~ subsections (5)(b) and (15), the one-time registration fee for off-highway vehicles other than a quadricycle or motorcycle is \$61.25.

(b) *Whenever a valid summer motorized recreation trail pass issued pursuant to [section 2] is affixed to an off-highway vehicle other than a quadricycle or motorcycle, the one-time registration fee is \$41.25.*

(6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75.

(7) (a) Except as provided in subsection (7)(c), the annual registration fee for a motor home, based on the age of the motor home, is as follows:

- (i) less than 2 years old, \$282.50;
- (ii) 2 years old and less than 5 years old, \$224.25;
- (iii) 5 years old and less than 8 years old, \$132.50; and
- (iv) 8 years old and older, \$97.50.

(b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee under this section may permanently register the motor home upon payment of:

(i) a one-time registration fee of \$237.50;

(ii) unless a new set of license plates is being issued, an insurance verification fee of \$5, which must be deposited in the account established under 61-6-158;

(iii) if applicable, five times the renewal fees for personalized license plates under 61-3-406; and

(iv) if applicable, the donation fee for a generic specialty license plate under 61-3-480 or a collegiate license plate under 61-3-465.

(c) For a motor home with a manufacturer's suggested retail price of more than \$300,000 that is 10 years old or less, the annual registration fee is the amount provided in subsection (7)(a) plus \$800.

(8) (a) Except as provided in ~~subsection~~ *subsections (8)(b) and (15)*, the one-time registration fee for motorcycles and quadricycles registered for:

(i) use on public highways is \$53.25; ~~and the one-time registration fee for motorcycles and quadricycles registered for~~

(ii) both off-road use and for use on the public highways is \$114.50.

(b) *Whenever a valid summer motorized recreation trail pass issued pursuant to [section 2] is affixed to a motorcycle or quadricycle, the one-time registration fee for motorcycles and quadricycles registered for:*

(i) *use on public highways is \$33.25; and*

(ii) *both off-road use and for use on the public highways is \$94.50.*

~~(b)(c)~~ (c) An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(9) Except as provided in subsection (15), the one-time registration fee for travel trailers, based on the length of the travel trailer, is as follows:

(a) under 16 feet in length, \$72; and

(b) 16 feet in length or longer, \$152.

(10) Except as provided in subsection (15), the one-time registration fee for a motorboat, sailboat, personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows:

(a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length, \$65.50;

(b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in length, \$125.50; and

(c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50.

(11) (a) Except as provided in subsections (11)(b), *(11)(c), and* (15), the one-time registration fee for a snowmobile is \$60.50.

(b) *Whenever a valid snowmobile trail pass issued pursuant to [section 9] is affixed to a snowmobile, the one-time registration fee is \$40.50.*

~~(b)(c)~~ (i) A snowmobile that is licensed by a Montana business and is owned exclusively for the purpose of daily rental to customers is assessed:

(A) a fee of \$40.50 in the first year of registration; and

(B) if the business reregisters the snowmobile for a second year, a fee of \$20.

(ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently registered and the business is assessed the registration fee imposed in subsection (11)(a).

(12) (a) The one-time registration fee for a low-speed electric vehicle is \$25.

(b) The one-time registration fee for a golf cart that is owned by a person who has or is applying for a low-speed restricted driver's license is \$25.

(c) The one-time registration fee for golf carts authorized to operate on certain public streets and highways pursuant to 61-8-391 is \$25. Upon receipt of the fee, the department shall issue the owner a decal, which must be displayed visibly on the golf cart.

(13) (a) Except as provided in subsection (13)(b), a fee of \$10 must be collected when a new set of standard license plates, a new single standard license plate, or a replacement set of special license plates required under 61-3-332 is issued. The \$10 fee imposed under this subsection does not apply when previously issued license plates are transferred under 61-3-335. All registration fees imposed under this section must be paid if the vehicle to which the plates are transferred is not currently registered.

(b) An additional fee of \$15 must be collected if a vehicle owner elects to keep the same license plate number from license plates issued before January 1, 2010, when replacement of those plates is required under 61-3-332(3).

(c) The fees imposed in this subsection (13) must be deposited in the account established under 61-6-158, except that \$2 of the fee imposed in subsection (13)(a) must be deposited in the state general fund.

(14) The provisions of this part with respect to the payment of registration fees do not apply to and are not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled by the United States of America or any state, county, city, or special district, as defined in 18-8-202, or to a vehicle or vessel that meets the description of property exempt from taxation under 15-6-201(1)(a), (1)(d), (1)(e), (1)(g), (1)(h), (1)(i), (1)(k), (1)(l), (1)(n), or (1)(o), 15-6-203, or 15-6-215, except as provided in 61-3-520.

(15) Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle, quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, snowmobile, motor vehicle owned and operated solely as a collector's item pursuant to 61-3-411, or low-speed electric vehicle is transferred, the new owner shall title and register the vehicle or vessel as required by this chapter and pay the fees imposed under this section.

(16) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

(17) Except as otherwise provided in this section, revenue collected under this section must be deposited in the state general fund.

(18) The fees imposed by subsections (2) through (12) are not required to be paid by a dealer for the enumerated vehicles or vessels that constitute inventory of the dealership.

(19) (a) Unless a person exercises the option in either subsection (19)(b) or (19)(c), an additional fee of \$6 must be collected for each light vehicle registered under this part. This fee must be accounted for and transmitted separately from the registration fee. The fee must be deposited in an account in the state special revenue fund to be used for state parks, for fishing access sites, and for the operation of state-owned facilities. Of the \$6 fee, the department of fish, wildlife, and parks shall use \$5.37 for state parks [or as otherwise appropriated by the legislature], 25 cents for fishing access sites, and 38 cents for the operation of state-owned facilities at Virginia City and Nevada City.

(b) A person who registers a light vehicle may, at the time of annual registration, certify that the person does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected.

(c) (i) A person who registers one or more light vehicles may, at the time of annual registration, certify that the person does not intend to use any of the vehicles to visit state parks and fishing access sites and may make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected at any subsequent annual registration unless the person makes the written election to pay the additional fee on one or more of the light vehicles.

(ii) The written election not to pay the additional fee on a light vehicle expires if the vehicle is registered to a different person.

(20) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle, quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$10 must be collected and forwarded to the state for deposit in the account established in 44-1-504.

(21) (a) If a person exercises the option in subsection (21)(b), an additional fee of \$5 must be collected for each light vehicle registered under this part. This fee must be accounted for and transmitted separately from the registration fee. The fee must be deposited in an account in the state special revenue fund. Funds in the account are statutorily appropriated, as provided in 17-7-502, to the department of transportation and must be allocated as provided in 60-3-309.

(b) A person who registers one or more light vehicles may, at the time of annual registration, make a written or electronic election to pay the additional \$5 fee provided for in subsection (21)(a).

(22) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by 61-3-721.

(23) (a) The \$800 and \$825 amounts collected based on the manufacturer's suggested retail price in subsections (2) and (7) are exempt from the provisions of 15-1-122 and must be deposited in the motor vehicle division administration account established in 61-3-112.

(b) By August 15 of each year, beginning in the fiscal year beginning July 1, 2019, the department of justice shall deposit into the general fund an amount equal to the fiscal yearend balance minus 25% of the current fiscal year appropriation for the motor vehicle division administration account established in 61-3-112. (Bracketed language terminates June 30, 2019--sec. 21, Ch. 351, L. 2017.)"

Section 12. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 23, chapter 2, part 1, and the provisions of Title 23, chapter 2, part 1, apply to [sections 1 through 4].

Approved May 7, 2019

CHAPTER NO. 354

[HB 376]

AN ACT REPEALING THE REAL ESTATE RECOVERY ACCOUNT; PROVIDING FOR THE TRANSFER OF REMAINING MONEY IN THE ACCOUNT TO THE HOUSING MONTANA FUND; REQUIRING CLAIMS MADE TO THE REAL ESTATE RECOVERY ACCOUNT TO BE COMPLETED BY JANUARY 31, 2021; AMENDING SECTIONS 17-7-502 AND 37-51-102, MCA; REPEALING SECTIONS 37-51-501, 37-51-502, 37-51-503, 37-51-504, 37-51-505, 37-51-506, 37-51-507, 37-51-508, 37-51-509, 37-51-510, 37-51-511, AND 37-51-512, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-7-502, MCA, is amended to read:

“17-7-502. Statutory appropriations – definition – requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; ~~37-51-501~~; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-416; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015,

the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023, and pursuant to sec. 2, Ch. 340, L. 2017, and sec. 32, Ch. 429, L. 2017, is void for fiscal years 2018 and 2019; and pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027.)”

Section 2. Section 37-51-102, MCA, is amended to read:

“37-51-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

~~(1) “Account” means the real estate recovery account established in 37-51-501.~~

~~(2)~~(1) (a) “Adverse material fact” means a fact that should be recognized by a broker or salesperson as being of enough significance as to affect a person’s decision to enter into a contract to buy or sell real property and may be a fact that:

(i) materially affects the value, affects structural integrity, or presents a documented health risk to occupants of the property; or

(ii) materially affects the buyer’s ability or intent to perform the buyer’s obligations under a proposed or existing contract.

(b) The term does not include the fact that an occupant of the property has or has had a communicable disease or that the property was the site of a suicide or felony.

~~(3)~~(2) “Asset management” means management, oversight, or direct actions taken to maintain or transfer any real property before a foreclosure sale or in preparation for liquidation of real property owned by the client pursuant to a foreclosure sale. This includes any action taken to preserve, restore, or improve the value and to lessen the risk of damage to the property in preparation for liquidation of real property pursuant to a foreclosure sale.

~~(4)~~(3) “Board” means the board of realty regulation provided for in 2-15-1757.

~~(5)~~(4) “Broker” includes an individual who:

(a) for another or for valuable consideration or who with the intent or expectation of receiving valuable consideration negotiates or attempts to negotiate the listing, sale, purchase, rental, exchange, or lease of real estate or of the improvements on real estate or collects rents or attempts to collect rents;

(b) is employed by or on behalf of the owner or lessor of real estate to conduct the sale, leasing, subleasing, or other disposition of real estate for consideration;

(c) engages in the business of charging an advance fee or contracting for collection of a fee in connection with a contract by which the individual undertakes primarily to promote the sale, lease, or other disposition of real estate in this state through its listing in a publication issued primarily for this purpose or for referral of information concerning real estate to brokers;

(d) makes the advertising, sale, lease, or other real estate information available by public display to potential buyers;

(e) aids or attempts or offers to aid, for a fee, any person in locating or obtaining any real estate for purchase or lease;

(f) receives a fee, commission, or other compensation for referring to a licensed broker or salesperson the name of a prospective buyer or seller of real property;

(g) performs asset management services for real property in conjunction with the marketing or transfer of the property; or

(h) advertises or represents to the public that the individual is engaged in any of the activities referred to in this subsection ~~(5)~~ (4).

~~(6)~~(5) "Buyer" means a person who is interested in acquiring an ownership interest in real property or who has entered into an agreement to acquire an interest in real property. The term includes tenants or potential tenants with respect to leases or rental agreements of real property.

~~(7)~~(6) "Buyer agent" means a broker or salesperson who, pursuant to a written buyer broker agreement, is acting as the agent of the buyer in a real estate transaction and includes a buyer subagent and an in-house buyer agent designate.

~~(8)~~(7) "Buyer broker agreement" means a written agreement in which a prospective buyer employs a broker to locate real estate of the type and with terms and conditions as designated in the written agreement.

~~(9)~~(8) "Buyer subagent" means a broker or salesperson who, pursuant to an offer of a subagency, acts as the agent of a buyer.

~~(10)~~(9) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

~~(11)~~(10) "Dual agent" means a broker or salesperson who, pursuant to a written listing agreement or buyer broker agreement or as a buyer or seller subagent, acts as the agent of both the buyer and seller with written authorization, as provided in 37-51-314. An in-house buyer or seller agent designate may not be considered a dual agent.

~~(12)~~(11) "Franchise agreement" means a contract or agreement by which:

(a) a franchisee is granted the right to engage in business under a marketing plan prescribed in substantial part by the franchisor;

(b) the operation of the franchisee's business is substantially associated with the franchisor's trademark, trade name, logotype, or other commercial symbol or advertising designating the franchisor; and

(c) the franchisee is required to pay, directly or indirectly, a fee for the right to operate under the agreement.

~~(13)~~(12) "In-house buyer agent designate" means a broker or salesperson employed by or associated as an independent contractor with a broker and designated by the broker as the exclusive agent for a buyer for a designated transaction and who may not be considered to be acting for other than the buyer with respect to the designated transaction.

~~(14)~~(13) "In-house seller agent designate" means a broker or salesperson employed by or associated as an independent contractor with a broker and designated by the broker as the exclusive agent for a seller for a designated transaction and who may not be considered to be acting for other than the seller with respect to the designated transaction.

~~(15)~~(14) "Listing agreement" means a written agreement between a seller and broker for the sale of real estate, with the terms and conditions set out in the agreement.

~~(16)~~(15) "Negotiations" includes:

(a) efforts to act as an intermediary between parties to a real estate transaction;

(b) facilitating and participating in contract discussions;

(c) completing forms for offers, counteroffers, addendums, and other writings; and

(d) presenting offers and counteroffers.

~~(17)~~(16) "Person" includes individuals, partnerships, associations, and corporations, foreign and domestic, except that when referring to a person licensed under this chapter, it means an individual.

~~(18)~~(17) "Property manager" means an individual who for a salary, commission, or compensation of any kind or with the intent or expectation of receiving valuable consideration engages in the business of leasing, renting, subleasing, or other transfer of possession of real estate located in this state and belonging to others without transfer of the title to the property. The term includes but is not limited to an individual who:

(a) is employed by or on behalf of the owner, lessor, or potential lessee of real estate to promote or conduct the leasing, subleasing, or other disposition or acquisition of real estate without transfer of the title to the property;

(b) negotiates or attempts to negotiate the lease of any real estate located in this state or of the improvements on any real estate located in this state;

(c) engages in the business of promoting the lease, rental, exchange, or other disposition of real estate located in this state without transfer of the title to the property through the listing of the real estate in a publication issued primarily for this purpose;

(d) assists in creating or completing real estate lease contracts;

(e) procures tenants for owners of real estate located in this state;

(f) aids or offers to aid, for a fee, any person in locating or obtaining any real estate for lease in this state;

(g) makes the advertising of real property for lease available by public display to potential tenants;

(h) shows rental or lease properties to potential tenants;

(i) in conjunction with property management responsibilities, acts as a liaison between the owners of real estate and a tenant or potential tenant;

(j) in conjunction with property management responsibilities, generally oversees the inspection, maintenance, and upkeep of leased real estate belonging to others;

(k) in conjunction with property management responsibilities, collects rents or attempts to collect rents for any real estate located in this state;

(l) pays a fee, commission, or other compensation to a licensed broker, salesperson, or property manager for referral of the name of a prospective lessor or lessee of real property;

(m) receives a fee, commission, or other compensation from a licensed broker, salesperson, or property manager for referring the name of a prospective buyer, seller, lessor, or lessee of real estate; or

(n) advertises or represents to the public that the individual is engaged in any of the activities referred to in this subsection ~~(18)~~ (17).

~~(19)~~(18) "Real estate" includes leaseholds as well as any other interest or estate in land, whether corporeal, incorporeal, freehold, or nonfreehold and whether the real estate is situated in this state or elsewhere.

~~(20)~~(19) "Real estate transaction" means the sale, exchange, or lease or grant of an option for the sale, exchange, or lease of an interest in real estate and includes all communication, interposition, advisement, negotiation, and contract development and closing.

~~(21)~~(20) "Salesperson" includes an individual who for a salary, commission, or compensation of any kind is associated, either directly, indirectly, regularly, or occasionally, with a real estate broker to sell, purchase, or negotiate for the sale, purchase, exchange, or renting of real estate.

(22)(21) “Seller” means a person who has entered into a listing agreement to sell real estate and includes landlords who have an interest in or are a party to a lease or rental agreement.

(23)(22) “Seller agent” means a broker or salesperson who, pursuant to a written listing agreement, acts as the agent of a seller and includes a seller subagent and an in-house seller agent designate.

(24)(23) “Seller subagent” means a broker or salesperson who, pursuant to an offer of a subagency, acts as the agent of a seller.

(25)(24) (a) “Statutory broker” means a broker or salesperson who assists one or more parties to a real estate transaction without acting as an agent or representative of any party to the real estate transaction.

(b) A broker or salesperson is presumed to be acting as a statutory broker unless the broker or salesperson has entered into a listing agreement with a seller or a buyer broker agreement with a buyer or has disclosed, as required in this chapter, a relationship other than that of a statutory broker.

(26)(25) “Supervising broker” means a licensed broker with whom a licensed salesperson is associated, directly, indirectly, regularly, or occasionally, to sell, purchase, or negotiate for the sale, purchase, exchange, or renting of real estate.

(27)(26) “Supervising broker endorsement” means an endorsement to a broker’s license that is required of any licensed broker who supervises licensed salespersons performing real estate activity.”

Section 3. Repealer. The following sections of the Montana Code Annotated are repealed:

- 37-51-501. Real estate recovery account established -- minimum balance -- interest.
- 37-51-502. Initial licensure and additional assessment.
- 37-51-503. Claims against fund -- orders for payment.
- 37-51-504. Form of application.
- 37-51-505. Motion to dismiss application.
- 37-51-506. Hearing on application.
- 37-51-507. Payment from account.
- 37-51-508. Limitation of payment -- pro rata distribution.
- 37-51-509. Claims satisfied in order of filing.
- 37-51-510. Deposits by board.
- 37-51-511. Subrogation rights of board.
- 37-51-512. Other disciplinary powers unimpaired -- effect of repayment to fund.

Section 4. Transfer of funds. The board must transfer remaining funds from the real estate recovery account to the housing Montana fund provided for in 90-6-107 and 90-6-133 on February 1, 2021.

Section 5. Transition from real estate recovery account. All claims to the real estate recovery account must be submitted by November 1, 2020, and completed by January 31, 2021, pursuant to 37-51-501 through 37-51-512.

Section 6. Coordination instruction. If [LC1473] is not passed and approved, then [this act] is void.

Section 7. Effective dates. (1) Except as provided in subsection (2), [this act] is effective February 1, 2021.

(2) [Section 5] and this section are effective October 1, 2019.

Approved May 7, 2019

CHAPTER NO. 355

[HB 403]

AN ACT REVISING THE COAL GROSS PROCEEDS TAX RATE ON COAL MINED FROM AN UNDERGROUND MINE; AMENDING SECTION 15-23-703, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-23-703, MCA, is amended to read:

“15-23-703. Taxation of gross proceeds – taxable value for nontax purposes. (1) (a) The department shall compute from the reported value of coal gross proceeds a tax roll that must be transmitted to the county treasurer on or before September 15 of each year. The department may not levy or assess any mills against coal gross proceeds but shall, subject to subsection (1)(b) and except as provided in subsection (1)(c), levy a tax of 5% against the value of coal as provided in 15-23-701(4). The county treasurer shall give full notice to each coal producer of the taxes due and shall collect the taxes.

(b) If the county grants a tax abatement for production from a new or expanding underground mine as provided in 15-23-715, the department shall levy a tax at a rate that would, after providing for payment to the state of the amount attributable to all applicable state mill levies as if the tax rate were 5% 5%, reduce the tax received by county taxing jurisdictions and any school district on the new or expanded production by the percentage amount of the tax abated by the county under 15-23-715.

(c) (i) For tax years beginning after December 31, 2011, the ~~initial~~ tax on coal mined from a new underground coal mine is 2.5% against the value of coal as provided in 15-23-701(4) ~~for the first 10 years of coal production. After 10 years, coal production from the mine is taxed as provided in subsection (1)(a).~~

(ii) For tax years beginning on or after January 1, 2011, and ending December 31, ~~2020~~ 2030, the ~~initial~~ tax rate under subsection (1)(c)(i) applies to coal mined from an existing underground coal mine producing coal from the mine as of December 31, 2010. For tax years beginning after December 31, 2020 2030, coal production is taxed as provided in subsection (1)(a).

(2) For all nontax purposes, the taxable value of the gross proceeds of coal is 45% of the contract sales price as defined in 15-35-102.

(3) (a) Except as provided in subsections (4) and (7) and subject to subsection (3)(b), coal gross proceeds taxes must be allocated to the state, county, and school districts in the same relative proportions as the taxes were distributed in fiscal year 1990.

(b) The county treasurer shall multiply the coal gross proceeds taxes collected in the county under this part by the relative proportions determined for the state, county, and school districts under subsection (3)(a). Those amounts must be distributed as follows:

(i) the state share must be distributed in the relative proportions required by levies for state purposes in the same manner as property taxes were distributed in fiscal year 1990;

(ii) except as provided in subsection (5), the county share must be distributed in the relative proportions required by levies for county purposes, other than an elementary school or high school, in the same manner as property taxes were distributed in the previous fiscal year;

(iii) except as provided in subsection (6), the school districts' share must be distributed in the relative proportions required by levies for school district purposes in the same manner as property taxes were distributed in the previous fiscal year.

(4) If there is a distribution of coal gross proceeds from a new or expanding underground mine with a tax abatement as provided under 15-23-715, the county treasurer shall distribute:

(a) the state's share of the coal gross proceeds determined under subsection (1)(b) in the relative proportion required by the appropriate levies for state purposes; and

(b) the county's share and any school district's share of the coal gross proceeds determined under subsection (1)(b) as provided in this section.

(5) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds taxes that would have gone to a taxing unit, as provided in subsection (3)(b)(i), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(a) The county treasurer shall first allocate the coal gross proceeds taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in the previous fiscal year.

(b) If the allocation in subsection (5)(a) exceeds the total budget of a taxing unit, the commissioners may direct the county treasurer to reallocate the excess to any taxing unit within the county.

(6) The board of trustees of an elementary or high school district may reallocate the coal gross proceeds taxes distributed to the district by the county treasurer under the following conditions:

(a) The district shall first allocate the coal gross proceeds taxes to the budgeted funds of the district in the same proportion that all other property tax proceeds were distributed in the district in the previous fiscal year.

(b) If the allocation under subsection (6)(a) exceeds the total budget for a fund, the trustees may reallocate the excess to any budgeted fund of the school district.

(7) Except as provided in subsections (8) and (9), the county treasurer shall credit all taxes collected under this part from coal mines that began production after December 31, 1988, in the relative proportions required by the levies for state, county, and school district purposes in the same manner as property taxes were distributed in the previous fiscal year.

(8) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds under subsection (7) in the same manner as provided in subsection (5).

(9) The board of trustees of an elementary or high school district may reallocate the coal gross proceeds taxes distributed to the district by the county treasurer under subsection (7) in the same manner as provided in subsection (6)."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2019

CHAPTER NO. 356

[HB 411]

AN ACT GENERALLY REVISING LAWS RELATED TO AQUATIC INVASIVE SPECIES PROGRAM FUNDING; REQUIRING AN AQUATIC INVASIVE SPECIES PREVENTION PASS FOR NONRESIDENT VESSELS; DECREASING PREVENTION PASS FEES FOR NONRESIDENT ANGLERS; INCREASING REGISTRATION FEES FOR RESIDENT MOTORIZED VESSELS; PROVIDING EXCEPTIONS; PROVIDING RULEMAKING

AUTHORITY; PROVIDING APPROPRIATIONS; EXTENDING AND REVISING FEES FOR HYDROELECTRIC FACILITIES; REALLOCATING LODGING TAX REVENUE; AMENDING SECTIONS 15-65-121, 15-72-601, 61-3-321, 80-7-1004, 87-2-130, 87-2-903, AND 90-1-135, MCA; AMENDING SECTIONS 19 AND 21, CHAPTER 387, LAWS OF 2017; REPEALING SECTION 7, CHAPTER 387, LAWS OF 2017; AND PROVIDING EFFECTIVE DATES AND TERMINATION DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Aquatic invasive species prevention pass for nonresident vessels – rulemaking. (1) In order for a motorized vessel exempt from registration in Montana pursuant to 61-3-321 or a nonmotorized vessel owned by a nonresident to launch on the waters of this state, the operator must possess an aquatic invasive species prevention pass purchased for the vessel, available for inspection either in physical form or as an electronic copy at the request of a warden, another officer, or an employee of the department. The pass must include a description of the vessel for which it was purchased.

(2) (a) The annual fee for an aquatic invasive species prevention pass purchased pursuant to this section is:

(i) \$10 for a nonmotorized vessel; and

(ii) \$30 for a motorized vessel.

(b) The pass expires at the end of each calendar year and is not transferable between vessels.

(3) Fees collected pursuant to this section must be deposited in the invasive species account established in 80-7-1004.

(4) The department may adopt rules to implement the provisions of this section.

(5) The provisions of this section do not apply to a motorized vessel owned or controlled by the United States or any state, county, city, special district as defined in 18-8-202, or tribal government or to a motorized vessel that meets the description of property exempt from taxation under 15-6-201(1)(d), (1)(n), or (1)(o) or 15-6-215.

(6) For the purposes of this section, the term “nonmotorized vessel” includes catamarans, drift boats, kayaks, rafts, and sailboats.

Section 2. Section 15-65-121, MCA, is amended to read:

“15-65-121. Distribution of tax proceeds. (1) The proceeds of the tax imposed by 15-65-111 must, in accordance with the provisions of 17-2-124, be deposited in an account in the state special revenue fund to the credit of the department. The department may spend from that account in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of 17-2-124 and as provided in subsections (2)(a) through ~~(2)(g)~~ (2)(h) of this section, the department shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds received each reporting period. The department shall distribute the portion of the 4% that was paid with federal funds to the agency that made the in-state lodging expenditure and deposit 30% of the amount deducted less the portion paid with federal funds in the state general fund. The amount of \$400,000 each year must be deposited in the Montana heritage preservation and development account provided for in 22-3-1004.

(2) The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation, deposited in the state general fund, distributed to agencies that paid the tax with federal funds,

or deposited in the heritage preservation and development account must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the Montana historical interpretation state special revenue account, to the Montana historical society, to the university system, and to the department of fish, wildlife, and parks, as follows:

(a) 1% to the Montana historical society to be used for the installation or maintenance of roadside historical signs and historic sites;

(b) 2.5% to the university system for the establishment and maintenance of a Montana travel research program;

(c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that have both resident and nonresident use;

(d) 1.4% to the *invasive species state special revenue account established in 80-7-1004*;

~~(d)~~(e) ~~64.4%~~ 63% to be used directly by the department of commerce;

~~(e)~~(f) (i) except as provided in subsection ~~(2)(e)(ii)~~ (2)(f)(ii), 22.5% to be distributed by the department to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide; and

(ii) if 22.5% of the proceeds collected annually within the limits of a city, consolidated city-county, resort area, or resort area district exceeds \$35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area district is located, to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-county, resort area, or resort area district;

~~(f)~~(g) 0.5% to the state special revenue account provided for in 90-1-135 for use by the state-tribal economic development commission established in 90-1-131 for activities in the Indian tourism region; and

~~(g)~~(h) 2.6% to the Montana historical interpretation state special revenue account established in 22-3-115.

(3) If a city, consolidated city-county, resort area, or resort area district qualifies under this section for funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit tourism corporation in the region in which the city, consolidated city-county, resort area, or resort area district is located.

(4) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation may be used by the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials.

(5) The tax proceeds received that are transferred to a state special revenue account pursuant to subsections (2)(a) through ~~(2)(e)~~ (2)(c), (2)(e), and (2)(f) are statutorily appropriated to the entities as provided in 17-7-502.

(6) The tax proceeds received that are transferred to the *invasive species state special revenue account pursuant to subsection (2)(d)* and to the Montana historical interpretation state special revenue account pursuant to subsection ~~(2)(g)~~ (2)(h) are subject to appropriation by the legislature."

Section 3. Section 15-72-601, MCA, is amended to read:

"15-72-601. (Temporary) Invasive species fee for hydroelectric facilities. (1) In recognition of the threat that invasive species pose to

Montana's hydroelectric power structures and systems, a hydroelectric facility shall pay a quarterly invasive species fee of ~~\$795.76 per megawatt of based on~~ the facility's nameplate capacity authorized by the federal energy regulatory commission. *The quarterly invasive species fee for nameplate capacity of:*

(a) *at least 1.5 megawatts but less than 25 megawatts is \$274.95 per megawatt;*

(b) *at least 25 megawatts but less than 100 megawatts is \$549.90 per megawatt; and*

(c) *100 megawatts or more is \$824.85 per megawatt.*

(2) Every hydroelectric facility subject to the fee in subsection (1) shall file on forms provided by the department and pay within 30 days after the end of each quarterly period. The quarterly periods end March 31, June 30, September 30, and December 31 of each year.

(3) If the fee is not paid on or before the due date, a penalty and interest must be assessed as provided in 15-1-216. The department may waive the penalty pursuant to 15-1-216.

(4) The department may audit the records and other documents of a hydroelectric facility to ensure that the proper fee is paid and collected pursuant to this section.

(5) A hydroelectric facility that funds protection, mitigation, and enhancement measures pursuant to a settlement approved by the federal energy regulatory commission may use any of those funds that are unobligated to pay, in whole or in part, the fee owed pursuant to subsection (1).

(6) Money collected pursuant to this section must be deposited in the invasive species account established in 80-7-1004.

~~(7) For the purposes of this section, the public service commission shall determine the appropriate recovery of this fee in rates in a proceeding held pursuant to 69-3-302 for any hydroelectric facility approved pursuant to 69-8-421.~~

~~(8)(7) For the purposes of this section, "hydroelectric facility" means an operating facility located in Montana in a watercourse as that term is defined in 85-2-102 that produces electricity using water power and has more than 1.5 megawatts in nameplate capacity. (Terminates June 30, 2019--sec. 21(3), Ch. 387, L. 2017.)~~

Section 4. Section 61-3-321, MCA, is amended to read:

"61-3-321. Registration fees of vehicles and vessels -- certain vehicles exempt from registration fees -- disposition of fees.

(1) Except as otherwise provided in this section, registration fees must be paid upon registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers, semitrailers, and pole trailers as provided in subsections (2) through (20).

(2) (a) Except as provided in subsection (2)(b), unless a light vehicle is permanently registered under 61-3-562, the annual registration fee for light vehicles, trucks, and buses that weigh 1 ton or less and for logging trucks that weigh 1 ton or less is as follows:

(i) if the vehicle is 4 or less years old, \$217;

(ii) if the vehicle is 5 through 10 years old, \$87; and

(iii) if the vehicle is 11 or more years old, \$28.

(b) For a light vehicle with a manufacturer's suggested retail price of more than \$150,000 that is 10 years old or less, the annual registration fee is the amount provided for in subsection (2)(a) plus \$825.

(3) (a) Except as provided in subsection (15), the one-time registration fee based on the declared weight of a trailer, semitrailer, or pole trailer is as follows:

- (i) if the declared weight is less than 6,000 pounds, \$61.25; or
- (ii) if the declared weight is 6,000 pounds or more, \$148.25.

(b) If a trailer, semitrailer, or pole trailer is registered under 61-3-701, the fees required in subsection (3)(a) must be paid annually.

(4) Except as provided in subsection (15), the one-time registration fee for motor vehicles owned and operated solely as collector's items pursuant to 61-3-411, based on the weight of the vehicle, is as follows:

- (a) 2,850 pounds and over, \$10; and
- (b) under 2,850 pounds, \$5.

(5) Except as provided in subsection (15), the one-time registration fee for off-highway vehicles other than a quadricycle or motorcycle is \$61.25.

(6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75.

(7) (a) Except as provided in subsection (7)(c), the annual registration fee for a motor home, based on the age of the motor home, is as follows:

- (i) less than 2 years old, \$282.50;
- (ii) 2 years old ~~and~~ *through* less than 5 years old, \$224.25;
- (iii) 5 years old ~~and~~ *through* less than 8 years old, \$132.50; and
- (iv) 8 years old ~~and~~ *or* older, \$97.50.

(b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee under this section may permanently register the motor home upon payment of:

- (i) a one-time registration fee of \$237.50;
- (ii) unless a new set of license plates is being issued, an insurance verification fee of \$5, which must be deposited in the account established under 61-6-158;
- (iii) if applicable, five times the renewal fees for personalized license plates under 61-3-406; and
- (iv) if applicable, the donation fee for a generic specialty license plate under 61-3-480 or a collegiate license plate under 61-3-465.

(c) For a motor home with a manufacturer's suggested retail price of more than \$300,000 that is 10 years old or less, the annual registration fee is the amount provided in subsection (7)(a) plus \$800.

(8) (a) Except as provided in subsection (15), the one-time registration fee for motorcycles and quadricycles registered for use on public highways is \$53.25, and the one-time registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways is \$114.50.

(b) An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

(9) Except as provided in subsection (15), the one-time registration fee for travel trailers, based on the length of the travel trailer, is as follows:

- (a) under 16 feet in length, \$72; and
- (b) 16 feet in length or longer, \$152.

(10) Except as provided in subsection (15), the one-time registration fee for a motorboat, sailboat, personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows:

(a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length, ~~\$65.50~~ *\$100.50, of which \$35 must be deposited in the invasive species account established in 80-7-1004;*

(b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in length, ~~\$125.50~~ *\$175.50, of which \$50 must be deposited in the invasive species account established in 80-7-1004;* and

(c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, ~~\$295.50~~ *\$370.50, of which \$75 must be deposited in the invasive species account established in 80-7-1004.*

(11) (a) Except as provided in subsections (11)(b) and (15), the one-time registration fee for a snowmobile is \$60.50.

(b) (i) A snowmobile that is licensed by a Montana business and is owned exclusively for the purpose of daily rental to customers is assessed:

(A) a fee of \$40.50 in the first year of registration; and

(B) if the business reregisters the snowmobile for a second year, a fee of \$20.

(ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently registered and the business is assessed the registration fee imposed in subsection (11)(a).

(12) (a) The one-time registration fee for a low-speed electric vehicle is \$25.

(b) The one-time registration fee for a golf cart that is owned by a person who has or is applying for a low-speed restricted driver's license is \$25.

(c) The one-time registration fee for golf carts authorized to operate on certain public streets and highways pursuant to 61-8-391 is \$25. Upon receipt of the fee, the department shall issue the owner a decal, which must be displayed visibly on the golf cart.

(13) (a) Except as provided in subsection (13)(b), a fee of \$10 must be collected when a new set of standard license plates, a new single standard license plate, or a replacement set of special license plates required under 61-3-332 is issued. The \$10 fee imposed under this subsection does not apply when previously issued license plates are transferred under 61-3-335. All registration fees imposed under this section must be paid if the vehicle to which the plates are transferred is not currently registered.

(b) An additional fee of \$15 must be collected if a vehicle owner elects to keep the same license plate number from license plates issued before January 1, 2010, when replacement of those plates is required under 61-3-332(3).

(c) The fees imposed in this subsection (13) must be deposited in the account established under 61-6-158, except that \$2 of the fee imposed in subsection (13)(a) must be deposited in the state general fund.

(14) The provisions of this part with respect to the payment of registration fees do not apply to and are not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled by the United States of America or any state, county, city, or special district, as defined in 18-8-202, or to a vehicle or vessel that meets the description of property exempt from taxation under 15-6-201(1)(a), (1)(d), (1)(e), (1)(g), (1)(h), (1)(i), (1)(k), (1)(l), (1)(n), or (1)(o), 15-6-203, or 15-6-215, except as provided in 61-3-520.

(15) Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle, quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, snowmobile, motor vehicle owned and operated solely as a collector's item pursuant to 61-3-411, or low-speed electric vehicle is transferred, the new owner shall title and register the vehicle or vessel as required by this chapter and pay the fees imposed under this section.

(16) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

(17) Except as otherwise provided in this section, revenue collected under this section must be deposited in the state general fund.

(18) The fees imposed by subsections (2) through (12) are not required to be paid by a dealer for the enumerated vehicles or vessels that constitute inventory of the dealership.

(19) (a) Unless a person exercises the option in either subsection (19)(b) or (19)(c), an additional fee of \$6 must be collected for each light vehicle registered under this part. This fee must be accounted for and transmitted separately from the registration fee. The fee must be deposited in an account in the state special revenue fund to be used for state parks, for fishing access sites, and for the operation of state-owned facilities. Of the \$6 fee, the department of fish, wildlife, and parks shall use \$5.37 for state parks [or as otherwise appropriated by the legislature], 25 cents for fishing access sites, and 38 cents for the operation of state-owned facilities at Virginia City and Nevada City.

(b) A person who registers a light vehicle may, at the time of annual registration, certify that the person does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected.

(c) (i) A person who registers one or more light vehicles may, at the time of annual registration, certify that the person does not intend to use any of the vehicles to visit state parks and fishing access sites and may make a written election not to pay the additional \$6 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected at any subsequent annual registration unless the person makes the written election to pay the additional fee on one or more of the light vehicles.

(ii) The written election not to pay the additional fee on a light vehicle expires if the vehicle is registered to a different person.

(20) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle, quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$10 must be collected and forwarded to the state for deposit in the account established in 44-1-504.

(21) (a) If a person exercises the option in subsection (21)(b), an additional fee of \$5 must be collected for each light vehicle registered under this part. This fee must be accounted for and transmitted separately from the registration fee. The fee must be deposited in an account in the state special revenue fund. Funds in the account are statutorily appropriated, as provided in 17-7-502, to the department of transportation and must be allocated as provided in 60-3-309.

(b) A person who registers one or more light vehicles may, at the time of annual registration, make a written or electronic election to pay the additional \$5 fee provided for in subsection (21)(a).

(22) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by 61-3-721.

(23) (a) The \$800 and \$825 amounts collected based on the manufacturer's suggested retail price in subsections (2) and (7) are exempt from the provisions of 15-1-122 and must be deposited in the motor vehicle division administration account established in 61-3-112.

(b) By August 15 of each year, beginning in the fiscal year beginning July 1, 2019, the department of justice shall deposit into the general fund an amount equal to the fiscal yearend balance minus 25% of the current fiscal year appropriation for the motor vehicle division administration account established in 61-3-112. (Bracketed language terminates June 30, 2019--sec. 21, Ch. 351, L. 2017.)"

Section 5. Section 80-7-1004, MCA, is amended to read:

"80-7-1004. (Temporary) Invasive species account. (1) There is an invasive species account in the state special revenue fund. The account is administered by the department of fish, wildlife, and parks.

(2) Money transferred from any lawful source, including but not limited to fees collected pursuant to 87-2-130, ~~[15-65-121, 15-72-601, and 15-72-602,]~~ and *[section 1]*, and gifts, grants, donations, securities, or other assets, public or private, may be deposited in the account.

(3) Subject to subsection (4), money deposited in the account must be used for projects that prevent or control any nonnative, aquatic invasive species pursuant to this part.

(4) Any private contribution deposited in the account for a particular purpose, as stated by the donor, must be used exclusively for that purpose.

(5) At the end of each fiscal year, unreserved funds in the account, including any interest and earnings, must be transferred to the invasive species trust fund established in 80-7-1016.

(6) The department of fish, wildlife, and parks may not recover indirect costs from the invasive species account. ~~(Terminates February 29, 2020--sec. 21(1), Ch. 387, L. 2017; bracketed language terminates June 30, 2019--sec. 21(3), Ch. 387, L. 2017.)~~

80-7-1004. ~~(Effective March 1, 2020) Invasive species account.~~ (1) There is an invasive species account in the state special revenue fund. The account is administered by the department of fish, wildlife, and parks.

(2) Money transferred from any lawful source, including but not limited to gifts, grants, donations, securities, or other assets, public or private, may be deposited in the account.

(3) Subject to subsection (4), money deposited in the account must be used for projects that prevent or control any nonnative, aquatic invasive species pursuant to this part.

(4) Any private contribution deposited in the account for a particular purpose, as stated by the donor, must be used exclusively for that purpose.

(5) At the end of each fiscal year, unreserved funds in the account, including any interest and earnings, must be transferred to the invasive species trust fund established in 80-7-1016.

(6) The department of fish, wildlife, and parks may not recover indirect costs from the invasive species account. ~~(Subsection (6) terminates June 30, 2027--sec. 21(2), Ch. 387, L. 2017.)~~

Section 6. Section 80-7-1004, MCA, is amended to read:

"80-7-1004. (Temporary) Invasive species account. (1) There is an invasive species account in the state special revenue fund. The account is administered by the department of fish, wildlife, and parks.

(2) Money transferred from any lawful source, including but not limited to fees collected pursuant to 87-2-130, ~~[15-65-121, 15-72-601, and 15-72-602,]~~ *[section 1]*, and 61-3-321, and gifts, grants, donations, securities, or other assets, public or private, may be deposited in the account.

(3) Subject to subsection (4), money deposited in the account must be used for projects that prevent or control any nonnative, aquatic invasive species pursuant to this part.

(4) Any private contribution deposited in the account for a particular purpose, as stated by the donor, must be used exclusively for that purpose.

(5) At the end of each fiscal year, unreserved funds in the account, including any interest and earnings, must be transferred to the invasive species trust fund established in 80-7-1016.

(6) The department of fish, wildlife, and parks may not recover indirect costs from the invasive species account. ~~(Terminates February 29, 2020--sec. 21(1), Ch. 387, L. 2017; bracketed language terminates June 30, 2019--sec. 21(3), Ch. 387, L. 2017.)~~

80-7-1004. (Effective March 1, 2020) Invasive species account. (1) There is an invasive species account in the state special revenue fund. The account is administered by the department of fish, wildlife, and parks.

(2) Money transferred from any lawful source, including but not limited to gifts, grants, donations, securities, or other assets, public or private, may be deposited in the account.

(3) Subject to subsection (4), money deposited in the account must be used for projects that prevent or control any nonnative, aquatic invasive species pursuant to this part.

(4) Any private contribution deposited in the account for a particular purpose, as stated by the donor, must be used exclusively for that purpose.

(5) At the end of each fiscal year, unreserved funds in the account, including any interest and earnings, must be transferred to the invasive species trust fund established in 80-7-1016.

(6) The department of fish, wildlife, and parks may not recover indirect costs from the invasive species account. (Subsection (6) terminates June 30, 2027--sec. 21(2), Ch. 387, L. 2017.)

Section 7. Section 80-7-1004, MCA, is amended to read:

“80-7-1004. (Temporary) Invasive species account. (1) There is an invasive species account in the state special revenue fund. The account is administered by the department of fish, wildlife, and parks.

(2) Money transferred from any lawful source, including but not limited to fees collected pursuant to 87-2-130, ~~[15-65-121, 15-72-601, and 15-72-602.]~~ *[section 1], and 61-3-321,* and gifts, grants, donations, securities, or other assets, public or private, may be deposited in the account.

(3) Subject to subsection (4), money deposited in the account must be used for projects that prevent or control any nonnative, aquatic invasive species pursuant to this part.

(4) Any private contribution deposited in the account for a particular purpose, as stated by the donor, must be used exclusively for that purpose.

(5) At the end of each fiscal year, unreserved funds in the account, including any interest and earnings, must be transferred to the invasive species trust fund established in 80-7-1016.

(6) The department of fish, wildlife, and parks may ~~not~~ *not more than 5% in* indirect costs from the invasive species account. ~~(Terminates February 29, 2020--sec. 21(1), Ch. 387, L. 2017; bracketed language terminates June 30, 2019--sec. 21(3), Ch. 387, L. 2017.)~~

80-7-1004. (Effective March 1, 2020) Invasive species account. (1) There is an invasive species account in the state special revenue fund. The account is administered by the department of fish, wildlife, and parks.

(2) Money transferred from any lawful source, including but not limited to gifts, grants, donations, securities, or other assets, public or private, may be deposited in the account.

(3) Subject to subsection (4), money deposited in the account must be used for projects that prevent or control any nonnative, aquatic invasive species pursuant to this part.

(4) Any private contribution deposited in the account for a particular purpose, as stated by the donor, must be used exclusively for that purpose.

(5) At the end of each fiscal year, unreserved funds in the account, including any interest and earnings, must be transferred to the invasive species trust fund established in 80-7-1016.

(6) The department of fish, wildlife, and parks may not recover indirect costs from the invasive species account. (Subsection (6) terminates June 30, 2027--sec. 21(2), Ch. 387, L. 2017.)”

Section 8. Section 87-2-130, MCA, is amended to read:

~~“87-2-130. (Temporary) Aquatic invasive species prevention pass.~~

(1) To be eligible to fish in Montana or to apply for a fishing license or a combination license that includes a fishing license, a person *who is 16 years of age or older* must first obtain an aquatic invasive species prevention pass as provided in this section. The pass must be purchased once each license year.

(2) Resident aquatic invasive species prevention passes may be purchased for a fee of \$2.

(3) Nonresident aquatic invasive species prevention passes may be purchased for a fee of ~~\$15~~ **\$7.50.** ~~(Terminates February 29, 2020--sec. 21(1), Ch. 387, L. 2017.)~~

Section 9. Section 87-2-903, MCA, is amended to read:

~~“87-2-903. (Temporary) Compensation, fees, and duties of agents -- penalty for late submission of license money.~~ (1) License agents, except salaried employees of the department, must receive for all services rendered a commission of 50 cents for each transaction, plus any additional amount as determined under subsection (9) and by rules adopted pursuant to subsection (10).

(2) A license agent may charge a convenience fee of up to 3% of the total amount of a transaction if a purchase is made with a credit card or a debit card. A financial institution or credit card company may not prohibit collection of the convenience fee provided for in this subsection.

(3) Each license agent shall submit to the department the money received from the sale of licenses and aquatic invasive species prevention passes and from donations received pursuant to [76-17-102 and] 87-1-293, less the appropriate commission and convenience fee.

(4) Each license agent shall submit to the department copies of each paper license sold.

(5) The department may charge license agents appointed after March 1, 1998, an electronic license system fee not to exceed actual costs.

(6) The department may designate classes of license agents and may establish a protocol for each class of agent. Each license agent shall keep the license account open at all reasonable hours to inspection by the department, the director, the wardens, or the legislative auditor.

(7) For purposes of this section, the term “transaction” includes the sale of any license or permit, collection of any data or fee, or issuance of any certificate prescribed by the department. The term does not include donations collected pursuant to [76-17-102 and] 87-1-293 or the sale of aquatic invasive species prevention passes pursuant to ~~[section 1]~~ or 87-2-130.

(8) If a license agent fails to submit to the department all money received from the declared sale of licenses and aquatic invasive species prevention passes and from donations received pursuant to [76-17-102 and] 87-1-293, less the appropriate commission and convenience fee, by the deadline established by the department, an interest charge equal to the rate charged under 15-1-216 may be assessed. Acceptance of late payments with interest does not preclude the department from summarily revoking the appointment of a license agent under 87-2-904.

(9) A license agent, except for an electronic service provider, must receive a commission of 50 cents for each ticket the agent processes for a hunting license lottery held pursuant to 87-1-271.

(10) The department may adopt rules necessary to implement this section. ~~(Terminates February 29, 2020--sec. 21(1), Ch. 387, L. 2017.)~~

~~87-2-903. (Effective March 1, 2020) Compensation, fees, and duties of agents -- penalty for late submission of license money.~~ (1) License

agents, except salaried employees of the department, must receive for all services rendered a commission of 50 cents for each transaction, plus any additional amount as determined under subsection (9) and by rules adopted pursuant to subsection (10):

(2) A license agent may charge a convenience fee of up to 3% of the total amount of a transaction if a purchase is made with a credit card or a debit card. A financial institution or credit card company may not prohibit collection of the convenience fee provided for in this subsection.

(3) Each license agent shall submit to the department the money received from the sale of licenses and from donations received pursuant to [76-17-102 and] 87-1-293, less the appropriate commission and convenience fee.

(4) Each license agent shall submit to the department copies of each paper license sold.

(5) The department may charge license agents appointed after March 1, 1998, an electronic license system fee not to exceed actual costs.

(6) The department may designate classes of license agents and may establish a protocol for each class of agent. Each license agent shall keep the license account open at all reasonable hours to inspection by the department, the director, the wardens, or the legislative auditor.

(7) For purposes of this section, the term "transaction" includes the sale of any license or permit, collection of any data or fee, or issuance of any certificate prescribed by the department. The term does not include donations collected pursuant to [76-17-102 and] 87-1-293.

(8) If a license agent fails to submit to the department all money received from the declared sale of licenses and from donations received pursuant to [76-17-102 and] 87-1-293, less the appropriate commission and convenience fee, by the deadline established by the department, an interest charge equal to the rate charged under 15-1-216 may be assessed. Acceptance of late payments with interest does not preclude the department from summarily revoking the appointment of a license agent under 87-2-904.

(9) A license agent, except for an electronic service provider, must receive a commission of 50 cents for each ticket the agent processes for a hunting license lottery held pursuant to 87-1-271.

(10) The department may adopt rules necessary to implement this section. (Bracketed language terminates June 30, 2027--sec. 10, Ch. 374, L. 2017.)"

Section 10. Section 90-1-135, MCA, is amended to read:

"90-1-135. Special revenue accounts. (1) There is a state special revenue account in the state treasury for the receipt of state and private funds and a federal special revenue account in the state treasury for the receipt of federal funds for expenditure by the state-tribal economic development commission established in 90-1-131.

(2) Money in the state special revenue account from proceeds distributed under 15-65-121(2)(f) 15-65-121(2)(g) is to be used for activities for the Indian tourism region, defined in 15-65-101.

(3) Except as provided in subsection (2), money in the accounts established in subsection (1) must be used to pay:

(a) the commission's administrative costs;

(b) the salary, benefits, and administrative expenses of the tribal business center coordinator and the federal grants coordinator; and

(c) the costs of conducting or commissioning and periodically updating or otherwise modifying a comprehensive assessment of economic development needs and priorities on each of the Indian reservations in the state.

(4) Money in the accounts that is not expended for the purposes identified in subsection (2) or (3) may be used for other purposes that the commission considers prudent or necessary.

(5) Interest and income earned on the money in the accounts must be deposited in the accounts for the commission's use."

Section 11. Appropriation. (1) For fiscal year 2020, there is appropriated for the prevention and control of aquatic invasive species:

(a) subject to the provisions of subsection (3), to the department of fish, wildlife, and parks:

(i) \$2,467,042 from the invasive species account established in 80-7-1004;

(ii) \$2,467,041 from the state special revenue fund established in 87-1-601;

(iii) \$1,400,000 from the federal special revenue fund established in 87-1-601; and

(b) to the department of natural resources and conservation, \$650,000 from the invasive species account established in 80-7-1004.

(2) For fiscal year 2021, there is appropriated for the prevention and control of aquatic invasive species:

(a) subject to the provisions of subsection (3), to the department of fish, wildlife, and parks:

(i) \$2,313,785 from the invasive species account established in 80-7-1004;

(ii) \$2,313,784 from the state special revenue fund established in 87-1-601;

(iii) \$1,400,000 from the federal special revenue fund established in 87-1-601; and

(b) to the department of natural resources and conservation, \$650,000 from the invasive species account established in 80-7-1004.

(3) If federal funds are received by the department of fish, wildlife, and parks for aquatic invasive species prevention and control in excess of the federal special revenue appropriation in this section, the state special revenue appropriation must be decreased by a commensurate amount and the federal special revenue appropriation must be increased by a commensurate amount.

(4) The legislature intends that the appropriations in this section be considered a part of the ongoing base for the 2021 legislative session.

Section 12. Appropriation. (1) For the biennium beginning July 1, 2019, there is appropriated \$837,893 from the federal special revenue fund established in 87-1-601 to the department of fish, wildlife, and parks for improvements and operations at Tiber reservoir and Canyon Ferry reservoir related to the prevention and control of aquatic invasive species.

(2) For purposes of [this act], the provisions of 17-7-212 apply to the appropriations provided for in subsection (1) of this section.

Section 13. Section 19, Chapter 387, Laws of 2017, is amended to read:

"Section 19. Effective dates date. (1) ~~Except as provided in subsection (2), [this /This act] is effective May 15, 2017.~~

(2) ~~[Section 7] is effective March 1, 2020."~~

Section 14. Section 21, Chapter 387, Laws of 2017, is amended to read:

"Section 21. Termination. (1) ~~[Sections 1, 6, 13, 14, 15, 16, and 17] terminate February 29, 2020.~~

(2) ~~[Sections 4 and 7(6)] terminate June 30, 2027.~~

(3) ~~[Sections 2 and Section 3] and the references reference to [sections 2 and section 3] in [section 6] terminate June 30, 2019."~~

Section 15. Repealer. Section 7, Chapter 387, Laws of 2017, is repealed.

Section 16. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 23, chapter 2, part 5, and the provisions of Title 23, chapter 2, part 5, apply to [section 1].

Section 17. Effective dates. (1) Except as provided in subsections (2) through (5), [this act] is effective July 1, 2019.

(2) [Sections 1, 5, 9, 13, 14, and 16] and this section are effective on passage and approval.

(3) [Sections 4 and 6] are effective January 1, 2020.

(4) [Section 8] is effective March 1, 2020.

(5) [Section 7] is effective July 1, 2023.

Section 18. Termination. (1) [Section 5] terminates December 31, 2019.

(2) [Section 6] terminates June 30, 2023.

Approved May 7, 2019

CHAPTER NO. 357

[HB 413]

AN ACT PROHIBITING THE USE OF A VAPOR PRODUCT OR AN ALTERNATIVE NICOTINE PRODUCT IN A PUBLIC SCHOOL BUILDING OR ON PUBLIC SCHOOL PROPERTY; PROVIDING DEFINITIONS; AMENDING SECTION 20-1-220, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-1-220, MCA, is amended to read:

“20-1-220. Use of tobacco product products in public school building or on public school property prohibited. (1) An individual may not use a tobacco product, *vapor product*, or *alternative nicotine product* in a public school building or on public school property.

~~(2) Subsection (1) does not apply to the use of a tobacco product in a classroom or on other school property as part of a lecture, demonstration, or educational forum sanctioned by a school administrator or faculty member concerning the risks associated with use of a tobacco product.~~

~~(2) (a) Subsection (1) does not apply to the use of a tobacco product, vapor product, or alternative nicotine product in a classroom or on other school property as part of a lecture, demonstration, or educational forum sanctioned by a school administrator or faculty member concerning the risks associated with use of a tobacco product, vapor product, or alternative nicotine product.~~

~~(b) Subsection (1) does not apply to the use of a smoking cessation product by an employee.~~

~~(3)(3)~~ The principal of an elementary or secondary school, or the principal's designee, may enforce this section.

~~(4)(4)~~ A violation of this section is subject to the penalties provided in 50-40-115.

~~(5)(5)~~ For the purposes of this section, the following definitions apply:

~~(a) “Alternative nicotine product” means a manufactured noncombustible product that contains nicotine derived from tobacco and that is intended for human consumption by being chewed, absorbed, dissolved, or ingested by any other means.~~

~~(a)(b)~~ “Public school building” or “public school property”:

~~(i)~~ means public land, fixtures, buildings, or other property owned or occupied by an institution for the teaching of minor children that is established and maintained under the laws of the state of Montana at public expense; and

~~(ii)~~ includes school playgrounds, school steps, parking lots, administration buildings, athletic facilities, gymnasiums, locker rooms, and school buses.

(b)(c) “Tobacco product” means a substance intended for human consumption that contains tobacco, including cigarettes, cigars, snuff, smoking tobacco, and smokeless tobacco.

(d) “Vapor product” means a noncombustible product that may contain nicotine and that uses a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, to produce vapor from a solution or other substance. The term includes:

(i) an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device; and

(ii) a vapor cartridge or other container in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product and device.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2019

CHAPTER NO. 358

[HB 416]

AN ACT REQUIRING PROFESSIONAL LIABILITY INSURANCE COVERAGE FOR REAL ESTATE BROKER AND SALESPERSON LICENSEES; PROVIDING FOR INSURANCE REQUIREMENTS; ALLOWING THE BOARD TO PROVIDE FOR A POLICY; REVISING THE DEFINITION OF “UNPROFESSIONAL CONDUCT”; AMENDING SECTION 37-51-321, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Professional liability insurance required – errors and omissions insurance coverage – policy requirements. (1) A real estate broker or salesperson licensed under this chapter must maintain continuous professional liability insurance coverage that meets the requirements of this section during the period of licensure. The insurance must cover the broker or salesperson for activities contemplated under Title 37, chapter 51, part 3, including errors and omissions by the real estate broker or salesperson.

(2) A real estate broker or salesperson licensed under this chapter must be covered by professional liability insurance through a policy:

(a) issued to real estate broker or salesperson licensees provided on a group policy basis that is approved by the board;

(b) obtained by real estate broker or salesperson licensees independently; or

(c) issued to the firm with which a real estate broker or salesperson license is affiliated.

(3) All policies issued under this chapter must:

(a) be issued by an insurer licensed under Title 33 to provide professional liability insurance;

(b) offer prior acts coverage to an insured who maintains continuous past insurance coverage;

(c) provide an automatic 60-day extended reporting period to report a claim if the policy is canceled or not renewed for any reason other than nonpayment of premium or a deductible; and

(d) offer an optional extended reporting of not less than 365 days to report a claim, as long as the insured requests the extended reporting period and pays any additional premium for the extended reporting period within 60 days after expiration or cancellation of the policy.

(4) (a) A professional liability insurance policy must be issued to the board and must cover a group of real estate brokers and salespersons licensed under Title 37, chapter 51, part 3, as named insureds. The board may request bids from insurers for the group policy and may use a limited solicitation under 18-4-305. The maximum contract period between the insurer and the board is seven consecutive policy terms, although the board may place the contract out for bid at the end of any policy period. A policy term is for a year. A real estate broker or salesperson licensee may not be denied coverage or be canceled by the group policy.

(b) The group policy must:

(i) have a minimum per-claim limit of \$100,000;

(ii) have a minimum annual aggregate limit of \$300,000;

(iii) have a deductible maximum of \$2,500 a claim for damages; and

(iv) provide coverage that is specific to the real estate broker or salesperson licensee regardless of changes in supervising broker.

(5) If the board is unable to obtain a professional liability insurance policy as described in [section 1(4)] on terms and conditions the board determines are commercially reasonable, the requirements of [section 1] do not apply to the licensing period for which the policy is sought.

(6) A professional liability insurance policy may be independently issued to a real estate broker or salesperson licensee. The individual policy must:

(a) have a minimum per-claim limit of \$100,000;

(b) have a minimum annual aggregate limit of \$300,000; and

(c) have a deductible maximum of \$2,500 a claim for damages.

(7) A professional liability insurance policy issued to the firm with which a real estate broker or salesperson licensee is affiliated must:

(a) have a minimum per-claim limit of \$100,000;

(b) have a minimum annual aggregate limit of \$1 million; and

(c) provide for a deductible not to exceed \$10,000 a claim to be paid by the firm with which a real estate broker or salesperson licensee is affiliated.

(8) An applicant seeking to obtain or renew a real estate broker or salesperson license shall prove to the board compliance with the insurance requirements of this section. A real estate broker or salesperson licensee who fails to produce proof of coverage on request by the board or its designee is subject to administrative suspension or disciplinary action as determined by the board.

(9) For purposes of this section, the following definitions apply:

(a) "Aggregate limit" means a provision in an insurance contract limiting the maximum liability of an insurer for a series of losses in a given time period, such as a policy term.

(b) "Claims-made and reported policy" means an insurance policy written on a claims-made and reported basis, which provides coverage for claims first made against the insured and first reported to the insurer during the insured's policy period for acts, errors, or omissions that occur after the insured's retroactive date.

(c) "Extended reporting period" means a designated period of time after expiration or cancellation of a claims-made and reported policy during which a claim may be made and reported as if the claim had been made and reported during the policy period.

(d) "Per-claim limit" means the maximum limit payable, per licensee, for damages arising from the same or a related claim.

(e) "Prior acts coverage" means coverage under a policy for claims made against the insured and reported to the insurer that arise from acts, errors, or

omissions in services rendered by an insured prior to inception of the current policy period.

(f) "Proof of coverage" means a copy of the actual policy of insurance, a certificate of insurance, or a binder of insurance.

(g) "Retroactive date" means a provision, found in many claims-made and reported policies, that the policy may not cover claims for injuries or damages that occurred before the retroactive date even if the claim is first made during the policy period.

Section 2. Section 37-51-321, MCA, is amended to read:

"37-51-321. Unprofessional conduct – sanction of license. (1) The following practices, in addition to the provisions of 37-1-316 and as provided in board rule, are considered unprofessional conduct for an applicant or a person licensed under this chapter:

(a) intentionally misleading, untruthful, or inaccurate advertising, whether printed or by radio, display, or other nature, if the advertising in any material particular or in any material way misrepresents any property, terms, values, policies, or services of the business conducted. A broker who operates under a franchise agreement engages in misleading, untruthful, or inaccurate advertising if in using the franchise name, the broker does not incorporate the broker's own name or the trade name, if any, by which the office is known in the franchise name or logotype. The board may not adopt advertising standards more stringent than those set forth in this subsection (1)(a).

(b) making any false promises of a character likely to influence, persuade, or induce;

(c) pursuing a continued and flagrant course of misrepresentation or making false promises through agents or salespersons or any medium of advertising or otherwise;

(d) use of the term "realtor" by a person not authorized to do so or using another trade name or insignia of membership in a real estate organization of which the licensee is not a member;

(e) failing to account for or to remit money coming into the licensee's possession when the money belongs to others;

(f) accepting, giving, or charging an undisclosed commission, rebate, or profit on expenditures made for a principal;

(g) acting in a dual capacity of broker and undisclosed principal in a transaction, including failing to disclose in advertisements for real property the person's dual capacity as broker and principal;

(h) guaranteeing, authorizing, or permitting a person to guarantee future profits that may result from the resale of real property;

(i) offering real property for sale or lease without the knowledge and consent of the owner or the owner's authorized agent or on terms other than those authorized by the owner or the owner's authorized agent;

(j) inducing a party to a contract of sale or lease to break the contract for the purpose of substituting a new contract with another principal;

(k) accepting employment or compensation for appraising real property contingent on the reporting of a predetermined value or issuing an appraisal report on real property in which the broker or salesperson has an undisclosed interest;

(l) as a broker or a salesperson, negotiating a sale, exchange, or lease of real property directly with a seller or buyer if the broker or salesperson knows that the seller or buyer has a written, outstanding listing agreement or buyer broker agreement in connection with the property granting an exclusive agency to another broker;

(m) soliciting, selling, or offering for sale real property by conducting lotteries for the purpose of influencing a purchaser or prospective purchaser of real property;

(n) as a salesperson, representing or attempting to represent a real estate broker other than the employer without the express knowledge or consent of the employer;

(o) failing voluntarily to furnish a copy of a written instrument to a party executing it at the time of its execution;

(p) unless exempted, paying a commission in connection with a real estate sale or transaction to a person who is not licensed as a real estate broker or real estate salesperson under this chapter;

(q) intentionally violating a rule adopted by the board in the interests of the public and in conformity with this chapter;

(r) failing, if a salesperson, to place, as soon after receipt as is practicably possible, in the custody of the salesperson's supervising broker, deposit money or other money entrusted to the salesperson in that capacity by a person, except if the money received by the salesperson is part of the salesperson's personal transaction;

(s) demonstrating unworthiness or incompetency to act as a broker, a salesperson, or a property manager;

(t) conviction of a felony;

(u) failing to meet the requirements of part 6 of this chapter or the rules adopted by the board governing property management while managing properties for owners; or

(v) failing to disclose to all customers and clients, including owners and tenants, the licensee's contractual relationship while managing properties for owners; or

(w) *failing to maintain continuous professional liability insurance coverage that meets the requirements of [section 1].*

(2) (a) It is unlawful for a broker or salesperson to openly advertise property belonging to others, whether by means of printed material, radio, television, or display or by other means, unless the broker or salesperson has a signed listing agreement from the owner of the property. The listing agreement must be valid as of the date of advertisement.

(b) The provisions of subsection (2)(a) do not prevent a broker or salesperson from including information on properties listed by other brokers or salespersons who will cooperate with the selling broker or salesperson in materials dispensed to prospective customers.

(3) The license of a broker, salesperson, or property manager who violates this section may be sanctioned as provided in 37-1-312."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 37, chapter 51, and the provisions of Title 37, chapter 51, apply to [section 1].

Section 4. Effective date. [This act] is effective November 1, 2020.

Approved May 7, 2019

CHAPTER NO. 359

[HB 428]

AN ACT EXPANDING ELIGIBILITY REQUIREMENTS OF THE INFRASTRUCTURE LOAN PROGRAM AND THE INTERCAP LOAN PROGRAM TO INDIAN TRIBAL GOVERNMENTS; PROVIDING

REQUIREMENTS TO LOAN AGREEMENTS WITH INDIAN TRIBAL GOVERNMENTS; CLARIFYING ELIGIBLE USE OF LOAN FUNDS FOR INDIAN TRIBAL GOVERNMENTS; AMENDING SECTIONS 17-5-1604 AND 17-6-316, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Loans with Indian tribal governments. Loan agreements with Indian tribal governments that are authorized under this title must contain the provisions specified in 90-6-709.

Section 2. Incurrence of certain general obligations related to Indian tribal governments. An Indian tribal government may enter into a loan agreement under Title 17, chapters 5 and 6 for any public or governmental purpose as provided in 7-7-4104.

Section 3. Section 17-5-1604, MCA, is amended to read:

“17-5-1604. Definitions. As used in this part, the following definitions apply:

(1) “Board” means the board of investments created in 2-15-1808.

(2) “Department” means the department of commerce created in 2-15-1801.

(3) “Eligible government unit” means:

(a) any municipal corporation or political subdivision of the state, including without limitation any city, town, county, school district, authority as defined in 75-6-304, or other special taxing district or assessment or service district authorized by law to borrow money;

(b) the state, any board, agency, or department of the state, or the board of regents of the Montana university system when authorized by law to borrow money; or

(c) ~~for the purposes of Title 90, chapter 4, part 12, only,~~ an Indian tribal government, *in accordance with [section 2]*.

(4) “Reserve fund” means the municipal finance consolidation act reserve fund created in 17-5-1630.”

Section 4. Section 17-6-316, MCA, is amended to read:

“17-6-316. Economic development loan – infrastructure tax credit.

(1) A loan made pursuant to 17-6-309(2) must be used to build infrastructure, as provided for in 7-15-4288(4), such as water systems, sewer systems, water treatment facilities, sewage treatment facilities, and roads, that allows the location or creation of a business in Montana. The loan must be made to a local government or *an Indian tribal government* that will create the necessary infrastructure. The infrastructure may serve as collateral for the loan. The local government or *Indian tribal government* receiving the loan may charge fees to the users of the infrastructure. A loan repayment agreement must provide for repayment of the loan from the entity authorized to charge fees for the use of the services of the infrastructure. Loans made pursuant to 17-6-309(2) qualify for the job credit interest rate reductions under 17-6-318 if the interest rate reduction passes through to the business creating the jobs.

(2) A loan pursuant to 17-6-309(2) and this section may not be made until the board is satisfied that the condition in 17-6-309(2) will be met. If the condition contained in 17-6-309(2) is not met, any credits received pursuant to subsection (3) of this section must be returned to the state.

(3) A business that is created or expanded as the result of a loan made pursuant to 17-6-309(2) and subsection (1) of this section is entitled to a credit against taxes due under Title 15, chapter 30 or 31, for the portion of the fees attributable to the use of the infrastructure. The total amount of tax credit claimed may not exceed the amount of the loan. The credit may be carried forward for 7 tax years or carried back for 3 tax years.”

Section 5. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Indian reservations and to the Little Shell Chippewa tribe.

Section 6. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 17, and the provisions of Title 17 apply to [sections 1 and 2].

Section 7. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2019

CHAPTER NO. 360

[HB 432]

AN ACT AUTHORIZING THE ISSUANCE OF BONUS POINTS FOR LIMITED FISHING LICENSES, TAGS, AND PERMITS; AMENDING SECTION 87-2-117, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-2-117, MCA, is amended to read:

“87-2-117. License bonus point system. (1) The commission shall establish a bonus point system that gives an applicant who has purchased more bonus points more chances to receive a ~~hunting~~ license, tag, or permit over an applicant who has purchased fewer bonus points.

(2) A person may purchase only one bonus point per species per license year and may:

(a) purchase a bonus point when applying for a license, tag, or permit by paying the fee established in 87-2-113(2) per species; or

(b) purchase a bonus point without applying for a license, tag, or permit by paying the fee established in subsection (5). An applicant not applying for a license, tag, or permit may purchase a bonus point only between July 1 and September 30 in the current license year.

(3) The department may only apply any accumulated bonus points to a person's chance to obtain a license, tag, or permit if the person purchases a bonus point when applying for the license, tag, or permit.

(4) Bonus points may only be applied to first choice drawings.

(5) (a) A resident who does not apply for a license, tag, or permit may purchase a bonus point for \$15 for each species for which a bonus point is made available by the commission.

(b) A nonresident who does not apply for a license, tag, or permit may purchase a bonus point for \$25 for each species for which a bonus point is made available by the commission, except that the fee is \$75 for moose, mountain goat, mountain sheep, and wild buffalo or bison.

(6) The department may not delete a person's accumulated bonus points unless the person obtains the license, tag, or permit associated with the bonus points, in which case the department shall delete the person's accumulated bonus points.

(7) The department shall square the number of points purchased by a person per species when conducting drawings for licenses, tags, and permits.”

Section 2. Effective date. [This act] is effective March 1, 2020.

Approved May 7, 2019

CHAPTER NO. 361

[HB 439]

AN ACT GENERALLY REVISING LAWS RELATED TO SERVICE ANIMALS; DEFINING THE TYPES OF ANIMALS ALLOWED AS SERVICE ANIMALS; ALLOWING FOR CERTAIN QUESTIONS TO BE ASKED OF A PERSON WHO REPRESENTS THAT THE PERSON HAS A DISABILITY AND IS ACCOMPANIED BY A SERVICE ANIMAL; REQUIRING THAT THE ANIMAL BE UNDER THE HANDLER'S CONTROL; REQUIRING CERTAIN POSTING PROVISIONS; CREATING PROCEDURES FOR IDENTIFYING AND EXCUSING A MISREPRESENTED SERVICE ANIMAL; CREATING A MISDEMEANOR OFFENSE FOR THE MISREPRESENTATION OF A SERVICE ANIMAL; AND AMENDING 49-4-203 AND 49-4-214, MCA.

WHEREAS, under the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, et seq., dogs that have been trained to do work or perform a task for the benefit of a person with a disability and whose work or task is directly related to the individual's disability meet the definition of a service animal; and

WHEREAS, properly trained service animals play a vital role in helping individuals with disabilities achieve and maintain independence, and the status of service animals is therefore protected by federal and state laws requiring places of public accommodation, including restaurants, theaters, stores, hospitals, and more to allow any animal that is presented as a service animal or a service animal in training into the place of public accommodation; and

WHEREAS, there is an increasing number of occurrences of people bringing pets, therapy animals, and emotional support animals into a place where the animal would otherwise not be allowed to enter by passing the animal off as a service animal or service animal in training, either by oral misrepresentation, placing a misleading vest or other article on the animal, or presenting a falsified certificate despite knowing that the animal is not a service animal; and

WHEREAS, the use of a misrepresented service animal erodes the public's trust of service animals that are well trained, adequately equipped, and fully serving the person with a disability they are entrusted to guide, aid, or protect.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 49-4-203, MCA, is amended to read:

"49-4-203. Definitions. (1) "Housing accommodation" means any real property or portion of real property that is used or occupied or is intended, arranged, or designed to be used or occupied as the home, residence, or sleeping place of one or more human beings. The term does not include any single-family residence the occupants of which furnish for compensation not more than one room within the residence.

(2) "Service animal" means a dog or ~~other animal~~ *miniature horse* individually trained to provide assistance to an individual with a disability. *The term does not include an emotional support animal.*"

Section 2. Section 49-4-214, MCA, is amended to read:

"49-4-214. Right to be accompanied by service animal – identification for service animals in training. (1) A person with a disability has the right to be accompanied by a service animal or a service animal in training with identification complying with subsection (4) in any of the places mentioned in 49-4-211(2) without being charged extra for the service animal. The person with a disability is liable for any damage done to the property by the animal.

(2) A person with a disability who has a service animal or who obtains a service animal is entitled to full and equal access to all housing accommodations as provided in 49-2-305 and 49-4-212. The person with a disability may not be required to pay extra compensation for the service animal but is liable for any damage done to the premises by the service animal.

(3) A person who is training a service animal is entitled to the same rights and assumes the same responsibilities granted to a person with a disability in this section.

(4) For the purposes of this section, a service animal in training ~~that is a dog~~ shall wear a leash, collar, cape, harness, or backpack that identifies in writing that the ~~dog~~ animal is a service animal in training. ~~Other service animals in training must also be identifiable by written identification as a service animal in training.~~ The written identification for service animals in training must be visible and legible from a distance of at least 20 feet.

(5) *If a person has a service animal that provides assistance and the person wishes to access the places and accommodations mentioned in 49-4-211 accompanied by the animal in its capacity as a service animal:*

(a) the animal must be under the handler's control as required under 28 CFR 35.136 that is in effect as of [the effective date of this act]; and

(b) the person may be asked by a representative of the place or accommodation:

(i) whether the animal is a service animal that is required because of a disability; and

(ii) to describe the work or task the animal is trained to perform.

(6) *(a) If the animal described in subsection (5) is not under the handler's control and the handler has not taken effective action to control the animal or the animal is not housebroken, the handler may be asked to remove the animal from the place or accommodation.*

(b) A place or accommodation that asks that an animal be removed from the place or accommodation as provided in subsection (6)(a) shall give the animal's handler the opportunity to participate in the service, program, or activity without having the service animal on the premises.

(7) *If a place or accommodation mentioned in 49-4-211 posts a notice that dogs or other animals are prohibited on the premises, the place or accommodation must also indicate that a person may be accompanied by a service animal subject to the provisions of this chapter."*

Section 3. Misrepresentation of a service animal – complaint – investigation. (1) A person who knowingly and willfully represents that an animal is a trained service animal by fitting the animal with a leash, collar, cape, harness, backpack, or sign that identifies the animal as a service animal or claims verbally or in writing that the animal is a service animal in order to access the places and accommodations mentioned in 49-4-211 with the animal, and it is found that the animal is not properly trained to provide services required of a service animal, the person may be asked to remove the animal from a place or accommodation as mentioned in 49-4-211 and local law enforcement may be called to investigate.

(2) An animal may be determined to lack the proper training required of a service animal if the animal is not housebroken or the animal is not under the control of the handler and the animal's handler does not take effective action to control the animal.

(3) (a) A representative of a place or accommodation mentioned in 49-4-211 who suspects that an animal is being misrepresented as a service animal to gain entry to the place or accommodation may file a complaint with local law

enforcement. The complaint must be written and must state the particulars of the alleged misrepresentation.

(b) A representative may not file a complaint unless the place or accommodation has posted conspicuous public notice that the place or accommodation:

(i) does not allow animals other than service animals; and

(ii) reserves the right to file complaints alleging the misrepresentation of service animals under this section.

(c) The notice required in subsection (3)(b) may include notice of the questions allowed under [section 2(5)(b)] and that the animal must be housebroken and under the handler's control.

(4) If local law enforcement is called to investigate as provided in subsection (1), written results of the investigation must be provided to the place or accommodation where the instance occurred and to the handler of the animal in question.

Section 4. Misrepresentation of a service animal – misdemeanor – penalty. (1) A person who misrepresents a service animal as provided in [section 3] may be found guilty of a misdemeanor if:

(a) the person was previously given a written warning regarding the fact that it is illegal to intentionally misrepresent a service animal; and

(b) the person continued to misrepresent the animal as a service animal in order to gain any of the rights or privileges afforded to a service animal.

(2) A person who violates subsection (1) shall be punished as follows:

(a) for a first offense, a fine of \$50;

(b) for a second offense, a fine of not less than \$75 or more than \$200; and

(c) for a third or subsequent offense, a fine of not less than \$100 or more than \$1,000.

(3) In addition to the penalty provided in subsection (1), a person convicted of the offense of misrepresentation of a service animal under subsection (1) may be required to perform community service for an organization that advocates on the behalf of persons with disabilities.

Section 5. Legislative intent. It is the intent of the legislature that the department of labor and industry implement and comply with [this act] within existing resources.

Section 6. Codification instruction. [Sections 3 and 4] are intended to be codified as an integral part of Title 49, chapter 4, part 2, and the provisions of Title 49, chapter 4, part 2, apply to [sections 3 and 4].

Approved May 7, 2019

CHAPTER NO. 362

[HB 566]

AN ACT ESTABLISHING REQUIREMENTS FOR BACKGROUND EMPLOYMENT CHECKS FOR ASSISTED LIVING FACILITIES; PROHIBITING EMPLOYMENT OF PEOPLE UNDER CERTAIN CIRCUMSTANCES; REQUIRING RULEMAKING; ALLOWING LICENSURE ACTIONS FOR FAILURE TO CONDUCT BACKGROUND CHECKS; AND AMENDING SECTIONS 50-5-225 AND 50-5-227, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 50-5-225, MCA, is amended to read:

“50-5-225. Assisted living facilities – services to residents – employee background checks. (1) An assisted living facility shall, at a minimum, provide or make provisions for:

(a) personal services, such as laundry, housekeeping, food service, and local transportation;

(b) assistance with activities of daily living, as provided for in the facility admission agreement and that do not require the use of a licensed health care professional or a licensed practical nurse;

(c) recreational activities;

(d) assistance with self-medication;

(e) 24-hour onsite supervision by staff; and

(f) assistance in arranging health-related services, such as medical appointments and appointments related to hearing aids, glasses, or dentures.

(2) An assisted living facility may provide, make provisions for, or allow a resident to obtain third-party provider services for:

(a) the administration of medications consistent with applicable laws and regulations; and

(b) skilled nursing care or other skilled services related to temporary, short-term, acute illnesses, which may not exceed 30 consecutive days for one episode or more than a total of 120 days in 1 year.

(3) An assisted living facility shall conduct a background check on all individuals who have accepted employment. The background check may be a name-based background check.

(4) An assisted living facility may not employ a person who:

(a) has been found guilty in a court of law of an offense involving abuse, neglect, exploitation, mistreatment, or misappropriation of property;

(b) has been subject to disciplinary action by a state professional licensing board because of a finding of abuse, neglect, exploitation, mistreatment of residents, or misappropriation of resident property; or

(c) has had a finding entered into the state nurse aide registry concerning abuse, neglect, exploitation, mistreatment of residents, or misappropriation of resident property.

(5) An assisted living facility may provisionally employ an individual pending the results of a background check."

Section 2. Section 50-5-227, MCA, is amended to read:

"50-5-227. Licensing assisted living facilities. (1) The department shall by rule adopt standards for licensing and operation of assisted living facilities to implement the provisions of 50-5-225 and 50-5-226.

(2) The department may deny, suspend, or revoke the license of an assisted living facility if the department finds a demonstrated pattern of noncompliance with the employee background check requirements of 50-5-225.

~~(2)~~(3) The following licensing categories must be used by the department in adopting rules under subsection (1):

(a) category A facility serving residents requiring the level of care as provided for in 50-5-226(2);

(b) category B facility providing skilled nursing care or other skilled services to five or fewer residents who meet the requirements stated in 50-5-226(3);

(c) category C facility providing services to residents with cognitive impairments requiring the level of care stated in 50-5-226(4); or

(d) category D facility providing services to residents with mental disorders who may be a temporary harm to themselves or others and who require the level of care stated in 50-5-226(5).

~~(3)~~(4) (a) A single facility meeting the applicable requirements for a category A facility may additionally be licensed to provide category B or category C services with the approval of the department.

(b) If a single facility meeting the applicable requirements as provided in subsection ~~(3)~~(a) (4)(a) further seeks to be licensed as a category D facility, the

facility shall provide documentation that indicates the facility can keep all residents safe.

(4)(5) The department may by rule establish license fees, inspection fees, and fees for patient screening. Fees must be reasonably related to service costs.”

Approved May 7, 2019

CHAPTER NO. 363

[HB 523]

AN ACT REVISING TRADE AND MARKETING ACTIVITIES BY THE STATE; EXPANDING DEPARTMENT OF COMMERCE ACTIVITIES NATIONALLY AND INTERNATIONALLY; INCORPORATING TRADE PROMOTION AND MARKETING INTO STATE WORKFORCE INNOVATION BOARD ACTIVITIES; ADDING A FOCUS ON RURAL, VETERAN, MINORITY, AND WOMEN-OWNED BUSINESSES; AND AMENDING SECTIONS 53-2-1203, 90-1-101, 90-1-105, 90-1-112, AND 90-1-144, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Trade activities. The department of commerce through its state trade expansion program or an equivalent program shall:

(1) promote the state through trade show delegations at key events regionally, nationally, and globally;

(2) work with the Montana agriculture development council, the tourism advisory council, the Montana manufacturing extension center, the Montana board of research and commercialization technology, the state workforce innovation board, and other state and national entities to improve funding for and access to supportive services for rural-based, veteran-owned, minority-owned, and women-owned businesses.

(3) work with local chambers of commerce, the governor’s office of economic development, certified regional development corporations, and other economic development organizations in this state to inform citizens in this state in the most cost-effective manner possible of the services available through the department.

Section 2. Section 53-2-1203, MCA, is amended to read:

“53-2-1203. Montana state workforce innovation board – membership – duties. (1) There is a Montana state workforce innovation board.

(2) The board:

(a) must consist of individuals who fulfill the membership roles and selection criteria required by section 101(b)(1) of the Act, 29 U.S.C. 3111(b)(1); and

(b) may include individuals who fulfill the membership roles and selection criteria permitted by section 101(b)(1) of the Act, 29 U.S.C. 3111(b)(1).

(3) The governor shall consider the special needs of Montana’s hard-to-serve Indian population and the state’s relationship with tribal governments when making appointments to the board.

(4) The board shall perform the functions described in section 101(d) of the Act, 29 U.S.C. 3111(d), *and assist the department of commerce in coordinating with local businesses in activities related to trade promotion and marketing.*”

Section 3. Section 90-1-101, MCA, is amended to read:

“90-1-101. Declaration of necessity and public policy. (1) It is hereby declared to be a necessity and the public policy of the state to promote,

stimulate, and encourage the planning and development of the economy of the state in order to provide for the social and economic prosperity of its citizens. Such promotion and development of industry, commerce, agriculture, labor, and natural resources of the state require that cognizance be taken of the continuing migration of people to the urban areas in search of job opportunities and the fact that Montana is making a needed transition to a diversified economy. Community planning, greater diversification of industry and attraction of additional industry, accelerated development of natural resources, expansion of existing industry, creation of new uses for agricultural products, greater emphasis on scientific research, development of new markets for the products of the state, and the attainment of a proper balance in the overall economic base, *without leaving behind those who remain in rural areas*, are all necessary in order to create additional employment opportunities, increase personal income, *retain quality of life for rural Montana*, and promote the general welfare of the people of this state.

(2) The legislature recognizes that consistency and continuity in the adoption and application of environmental rules are essential to the protection and enhancement of Montana's economic well-being, that consistency and continuity are particularly important to those persons who have made a financial commitment after completing an application for an environmental permit based on the existence of certain environmental rules, and that those persons are entitled to a reasonable expectation that requirements in such a permit will not be changed to their detriment. Therefore, when a person makes a financial commitment after having completed an application for an environmental permit, it is the policy of the state not to change the requirements for such permit to the detriment of the applicant or permittee without having first taken into account and given consideration to previous expenditures made by the applicant or permittee.

(3) The department of commerce shall be regarded as performing a governmental function in carrying out the provisions of 90-1-102 through 90-1-109."

Section 4. Section 90-1-105, MCA, is amended to read:

"90-1-105. Functions of department of commerce -- economic development. The department of commerce shall:

(1) provide coordinating services to aid state and local groups and Indian tribal governments in the promotion of new economic enterprises and conduct publicity and promotional activities *within the state, nationally, and internationally* in connection with new economic enterprises;

(2) collect and disseminate information regarding the advantages of developing agricultural, recreational, commercial, and industrial enterprises within this state;

(3) serve as an official state liaison between persons interested in locating new economic enterprises in Montana and state and local groups and Indian tribal governments seeking new enterprises;

(4) aid communities and Indian tribal governments interested in obtaining new business or expanding existing business;

(5) (a) study and promote means of expanding markets for Montana products *within the state, nationally, and globally*; and

(b) provide training and assistance for Montana small businesses and entrepreneurs to expand markets for made-in-Montana products;

(6) encourage and coordinate public and private agencies or bodies in publicizing the facilities and attractions of the state;

(7) explore the use of cooperative agreements, as provided in Title 18, chapter 11, part 1, for the promotion and enhancement of economic opportunities on the state's Indian reservations; and

(8) assist the state-tribal economic development commission established in 90-1-131 in:

(a) identifying federal government and private sector funding sources for economic development on Indian reservations in Montana; and

(b) fostering and providing assistance to prepare, develop, and implement cooperative agreements, in accordance with Title 18, chapter 11, part 1, with each of the tribal governments in Montana.”

Section 5. Section 90-1-112, MCA, is amended to read:

“90-1-112. Policy – purpose. (1) It is the policy of this state to:

(a) strengthen the foundations of the state's business environment and diversify and expand existing economic endeavors to achieve long-term economic stability;

(b) cooperate with business enterprises, local governments, other public organizations, and the federal government and use all practical means and measures, including financial and technical assistance, to:

(i) establish an economic climate in which the state's natural resources and agricultural operations remain constant contributors to the state's economic welfare;

(ii) articulate a coherent economic development vision for the future, *taking into account both rural and urban demands and the availability of entrepreneurs who, due to lack of economic development resources, might benefit from this policy;* and

(iii) take a proactive role to ensure that Montana has the flexibility and resources to be an effective competitor in the changing global marketplace.

(2) The purpose of 2-15-218, 2-15-219, and 90-1-112 through 90-1-114 is to provide a vision and a direction through the development of strategies and initiatives to ensure that the state's role in expanding the economy takes place in an orderly and effective manner.”

Section 6. Section 90-1-144, MCA, is amended to read:

“90-1-144. Financial assistance center – department responsibilities.

(1) There is a financial assistance center within the department of commerce.

(2) The center shall:

(a) compile and include a comprehensive list of all state financial assistance programs, including but not limited to:

(i) eligible recipients;

(ii) conditions required for an award of a loan or grant;

(iii) limits on the amount of funds available;

(iv) application information; and

(v) lending or granting cycles;

(b) maintain and provide information related to nonstate loan and grant programs by cooperating and coordinating with federal loan and grant programs, commercial lenders, and nonprofit economic development lending organizations; and

(c) provide regular opportunities for financial institutions, loan and grant applicants, local economic development organizations, business enterprises, and other federal, state, and local governmental entities to review the center and provide advice and recommendations regarding the expansion or modification of the center.

(3) The department shall:

(a) develop an internet website specifically designed to assist loan and grant applicants in gathering information. The website must, at a minimum, contain the following features:

(i) a prominently placed world wide web link representing the financial assistance programs that allows for multiple methods for website navigation;

(ii) a comprehensive list of the types of loans and grants available from the state, outlined by agency, subject, area, or speciality; and

(iii) an agency-specific loan and grant list with appropriate links to personnel responsible for administering the program;

(b) cooperate with the office of the secretary of state to ensure that rules governing electronic transactions, digital signatures, and digital notary can be applied to electronic loan and grant applications;

(c) provide direct and individual service to interested applicants to ensure that:

(i) adequate information regarding eligibility requirements for financial assistance is received and understood;

(ii) contacts and appointments are made with the various state agencies administering financial assistance programs;

(iii) technical and professional assistance is provided to facilitate the accurate and timely completion of business feasibility plans and financial assistance applications; and

(iv) periodic updates are provided to applicants regarding the status of financial assistance applications and new or emerging financial assistance opportunities;

(d) develop a marketing plan to provide information about the center to individuals, commercial financial institutions, local economic development organizations, business enterprises, and local governments;

(e) coordinate with the department of revenue to provide:

(i) information related to applicable business licensing and registration requirements; and

(ii) relevant information related to tax credits and tax incentive programs for economic development activities;

(f) collect and maintain a supply of loan and grant application forms and information for all state loans and grants and actively assist interested applicants in answering application questions;

(g) collect and maintain a master list of state loan opportunities by type of loan, eligibility requirements, lending cycles, and availability; and

(h) review rules, application forms and processes, and lending cycles of loan and grant programs administered by other state agencies and make recommendations to those agencies related to the development of uniform loan and grant requirements.

(4) The department may gather and disseminate information related to nonstate loan sources and perform other administrative tasks delegated to the department to improve state lending processes and loan and grant program administration.

(5) *The department shall work with other state agencies as provided in 90-1-145, particularly with the department of agriculture, the department of labor and industry, the department of military affairs, and the governor's office of economic development in promoting marketing, trade assistance, and workforce development, with an emphasis on rural-based, veteran-owned, minority-owned, and women-owned businesses."*

Section 7. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 8. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 90, chapter 1, and the provisions of Title 90, chapter 1, apply to [section 1].

Approved May 7, 2019

CHAPTER NO. 364

[HB 591]

AN ACT UPDATING TERMINOLOGY USED TO REFER TO PATERNITY TESTING TO REFLECT AVAILABILITY OF BUCCAL SWAB TESTING IN LIEU OF A BLOOD DRAW; AND AMENDING SECTIONS 40-5-201, 40-5-210, 40-5-225, 40-5-226, 40-5-232, 40-5-233, 40-5-234, 40-5-236, 40-5-237, 40-5-238, 40-6-102, 40-6-105, 40-6-111, 40-6-112, 40-6-113, 40-6-114, 40-6-115, AND 40-6-119, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 40-5-201, MCA, is amended to read:

“40-5-201. Definitions. As used in this part, the following definitions apply:

(1) “Alleged father” means a person who is alleged to have engaged in sexual intercourse with a child’s mother during a possible time of conception of the child or a person who is presumed to be a child’s father under the provisions of 40-6-105.

(2) (a) “Child” means:

(i) a person under 18 years of age who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States;

(ii) a person under 19 years of age and still in high school;

(iii) a person who is mentally or physically incapacitated if the incapacity began prior to the person’s 18th birthday; or

(iv) in a IV-D case, a person for whom:

(A) support rights are assigned under 53-2-613;

(B) a public assistance payment has been made;

(C) the department is providing support enforcement services under 40-5-203; or

(D) the department has received a referral for IV-D services from an agency of another state or an Indian tribe under the provisions of the Uniform Interstate Family Support Act, the Revised Uniform Reciprocal Enforcement of Support Act, the Uniform Reciprocal Enforcement of Support Act, or Title IV-D of the Social Security Act.

(b) The term may not be construed to limit the ability of the department to enforce a support order according to its terms when the order provides for support to extend beyond the child’s 18th birthday.

(3) “Department” means the department of public health and human services.

(4) “Director” means the director of the department of public health and human services or the director’s authorized representative.

(5) “Guidelines” means the child support guidelines adopted pursuant to 40-5-209.

(6) “Hearings officer” or “hearings examiner” means the hearings officer appointed by the department for the purposes of this chapter.

(7) “Need” means the necessary costs of food, clothing, shelter, and medical care for the support of a child or children.

(8) “Obligee” means:

(a) a person to whom a duty of support is owed and who is receiving support enforcement services under this part; or

(b) a public agency of this or another state or an Indian tribe having the right to receive current or accrued support payments.

(9) “Obligor” means a person, including an alleged father, who owes a duty of support.

(10) “Parent” means the natural or adoptive parent of a child.

(11) “Paternity blood genetic test” means a test that demonstrates through examination of genetic markers either that an alleged father is not the natural father of a child or that there is a probability that an alleged father is the natural father of a child. The genetic markers may be identified from a person’s blood or tissue sample. The blood or tissue sample may be taken by blood drawing, buccal swab, or any other method approved by the American association of blood banks. Paternity blood genetic tests may include but are not limited to the human leukocyte antigen test and DNA probe technology.

(12) “Public assistance” means any type of monetary or other assistance for a child, including medical and foster care benefits. The term includes payments to meet the needs of a relative with whom the child is living, if assistance has been furnished with respect to the child by a state or county agency of this state or any other state.

(13) “Support debt” or “support obligation” means the amount created by:

(a) the failure to provide for the medical, health, and support needs of a child under the laws of this or any other state or under a support order;

(b) a support order for spousal maintenance of the custodial parent; or

(c) fines, fees, penalties, interest, and other funds and costs that the department is authorized under this chapter to collect by the use of any procedure available for the payment, enforcement, and collection of child support or spousal maintenance or support.

(14) “Support order” means an order, whether temporary or final, that:

(a) provides for the payment of a specific amount of money, expressed in periodic increments or as a lump-sum amount, for the support of the child, including an amount expressed in dollars for medical and health needs, child care, education, recreation, clothing, transportation, and other related expenses and costs specific to the needs of the child;

(b) is issued by:

(i) a district court of this state;

(ii) a court of appropriate jurisdiction of another state, Indian tribe, or foreign country;

(iii) an administrative agency pursuant to proceedings under this part; or

(iv) an administrative agency of another state, Indian tribe, or foreign country with a hearing function and process similar to those of the department under this part; and

(c) when the context requires, includes:

(i) judgments and orders providing periodic payments for the maintenance or support of the custodial parent of a child receiving services under this chapter; and

(ii) amounts for the recovery of fines, fees, penalties, interest, and other funds and costs that the department is authorized under this chapter to collect by the use of any procedure available for the payment, enforcement, and collection of child support or spousal maintenance or support.

(15) "IV-D" means the provisions of Title IV-D of the Social Security Act and the regulations promulgated under the act."

Section 2. Section 40-5-210, MCA, is amended to read:

"40-5-210. Standardized fee schedule -- rules. (1) The department may charge an application fee to each person applying for services under 40-5-203, except that the fee may not be charged to persons who receive continuing services under 40-5-203(3). The application fee may be:

- (a) a flat dollar amount; or
- (b) an amount based on a sliding fee schedule that is based on the applicant's income level.

(2) If paternity is established or presumed under 40-5-234 for the alleged father, the fees for paternity ~~blood~~ *genetic* testing may be recovered from the parent, whether the alleged father or the mother, denying paternity of the alleged father. The total amount of the paternity ~~blood~~ *genetic* testing fee may not exceed the actual costs of the paternity ~~blood~~ *genetic* tests. A bill for a paternity ~~blood~~ *genetic* test is admissible in evidence without third-party foundation testimony.

(3) The department may not charge a handling fee for payment of support collected and distributed to an obligee who is not a recipient of public assistance.

(4) The department may charge an obligor a late payment fee for each late payment of support collected on behalf of any obligee.

(5) The department may establish a fee schedule in order to recover costs and expenses in excess of the application, handling, and late fees. The fees must be commensurate with costs or an average of the expenditures related to specific or routine activities.

(a) The department shall develop procedures for determining whether it is appropriate for either the obligor or the obligee to be responsible for payment of the fee. In developing the procedures, the department shall consider federal regulations promulgated under Title IV-D of the Social Security Act.

(b) In an action to establish paternity or to establish or enforce a child support obligation, whether in district court or by administrative process, the department must be awarded costs in the amount established in the fee schedule as part of any judgment, decree, or order whenever the department:

- (i) is a prevailing party in the action; or
- (ii) is not a party but incurs expenses and costs related to the action.

(6) The department may collect the fees awarded under this section by one of the following means:

- (a) if the fee is owed by an obligor, the fee may be:

- (i) collected through any remedy available to the department for the collection of child support arrearages; or

- (ii) deducted from any payments made by the obligor before the payment is distributed to the obligee. Credit for the payment must be reduced by the amount of the deduction for the fee. The deduction for fees may not reduce any current support due to the obligee. The deduction for a late payment fee may not reduce any current or past-due support due to the obligee.

- (b) if the fee is owed by the obligee, the fee may be collected separately through any remedy available to the department for the collection of child support or, if the fee has been assessed and deducted from the collection by an entity other than the department, the department may withhold the fee amount out of any payment collected on behalf of the obligee. The obligor must receive full credit for the payment as if the withholding of fees did not occur.

(7) The department, upon a showing of necessity, may waive or defer any fee assessed under this section.

(8) The department may adopt rules necessary to implement fee schedules under this section.

(9) The fees and costs charged and collected under this section must be paid monthly into the state treasury to the credit of the child support enforcement division special revenue fund and must be accompanied by a detailed statement of the amounts collected.

(10) A district court may not order the department to charge or collect fees, except as authorized under this section and rules implementing this section.”

Section 3. Section 40-5-225, MCA, is amended to read:

“40-5-225. Notice of financial responsibility – temporary and final support obligations – administrative procedure. (1) In the absence of an existing support order, when the requirements of this section are met, the department may enter an order requiring a child’s parent or parents to pay an amount each month for the support of the child. An order issued under this section must include a medical support order as required by 40-5-208.

(2) The department shall begin an action to establish a support order by serving a notice of financial responsibility on the parent or parents. The notice must include a statement:

(a) of the names of the child, the obligee, and, if different than the obligee, the child’s guardian or caretaker relative;

(b) of the dollar amount of the support obligation to be paid each month for the child, if any;

(c) that the monthly support obligation, if any, is effective on the date of service of the notice, unless an objection is made and a hearing is requested, and may be collected during the proceeding that establishes the support obligation by any remedy available to the department for the enforcement of child support obligations;

(d) that in addition to or independent of child support, the parent or parents may be ordered to provide for the child’s medical support needs;

(e) that any party may request a hearing to contest the amount of child support shown in the notice or to contest the establishment of a medical support order;

(f) that if a party does not file a request for a hearing in a timely manner, support, including medical support, will be ordered as declared in the notice or in accordance with the child support guidelines adopted under 40-5-209;

(g) that if a party does request a hearing, the other parties may refuse to participate in the proceedings and that the child support and medical support order will be determined using the information available to the department or provided at the hearing;

(h) that a party’s refusal to participate is equivalent to consenting to entry of a child support and medical support order consistent with the department’s determination; and

(i) that the parties are entitled to a fair hearing under 40-5-226.

(3) (a) The department may enter an order requiring a child’s parent or parents to pay an amount each month for the temporary support of the child pending entry of a support order by the district court if:

(i) a support action is pending in district court and a temporary or permanent support obligation has not been ordered; or

(ii) a paternity action is pending and there is clear and convincing evidence of paternity based on paternity ~~blood~~ *genetic* tests or other evidence.

(b) The temporary support order must include a medical support order as required by 40-5-208.

(c) A temporary support order may be modified by the department as provided in 40-5-272, 40-5-273, 40-5-277, and 40-5-278 but remains a temporary support order subject to the provisions of this section.

(4) The department shall begin an action to establish a temporary support order by serving a notice of temporary support obligation on the parent or parents. In addition to the statements required in subsection (2), the notice must include a statement that:

(a) a party may request a hearing to show that a temporary support obligation is inappropriate under the circumstances; and

(b) the temporary support order will terminate upon the entry of a final support order or an order of nonpaternity. If the final order is retroactive, any amount paid for a particular period under the temporary support order must be credited against the amounts due under the final order for the same period, but excess amounts may not be refunded. If an order of nonpaternity is issued or if the final support order states that periodic support obligation is not proper, the obligee shall refund to the obligor any improper amounts paid under the temporary support order, plus any costs that the obligor incurs in recovering the amount to be refunded.

(5) (a) If a temporary support order is entered or if proceedings are commenced under this section for a married obligor, the department shall vacate any support order or dismiss any proceeding under this part if it finds that the parties to the marriage have:

(i) reconciled without the marriage having been dissolved;

(ii) made joint application to the department to vacate the order or dismiss the proceeding; and

(iii) provided proof that the marriage has been resumed.

(b) The department may not vacate a support order or dismiss a proceeding under this subsection (5) if it determines that the rights of a third person or the child are affected. The department may issue a new notice of temporary support obligation under this section if the parties subsequently separate.

(6) A notice of financial responsibility and the notice of temporary support obligation may be served either by certified mail or in the manner prescribed for the service of a summons in a civil action in accordance with the Montana Rules of Civil Procedure.

(7) If prior to service of a notice under this section the department has sufficient financial information, the department's allegation of the obligor's monthly support responsibility, whether temporary or final, must be based on the child support guidelines established under 40-5-214. If the information is unknown to the department, the allegations of the parent's or parents' monthly support responsibility must be based on the greater of:

(a) the maximum amount of public assistance that could be payable to the child under Title 53 if the child was otherwise eligible for assistance; or

(b) the child's actual need as alleged by the custodial parent, guardian, or caretaker of the child.

(8) (a) A party who objects to a notice of financial responsibility or notice of temporary support obligation may file a written request for a hearing with the department:

(i) within 20 days from the date of service of a notice of financial responsibility; and

(ii) within 10 days from the date of service of a notice of temporary support obligation.

(b) If the department receives a timely request for a hearing, it shall conduct one under 40-5-226.

(c) If the department does not receive a timely request for a hearing, it shall order the parent or parents to pay child support, if any, and to provide for the child's medical needs as stated in the notice. The child support obligation must be the amount stated in the notice or determined in accordance with the child support guidelines adopted under 40-5-209.

(9) If the department is unable to enter an obligation in accordance with the child support guidelines because of default of a party, the department may, upon notice to the parties to the original order, substitute a support order made in accordance with the guidelines for the defaulted order.

(10) After establishment of an order under this section, the department may initiate a subsequent action on the original order to establish a child support or medical support obligation for another child of the same parents.

(11) A child support and medical support order under subsection (1) is effective as of the date of service of a notice of financial responsibility on the parent or parents and may be collected by any remedy available to the department for the enforcement of child support obligations. A final order is retroactive to the date of service of the notice of financial responsibility as provided in this subsection, except that the final order may also determine child support for a prior period as provided in 40-5-226(3).

(12) A child support and medical support order under subsection (1) continues until the child reaches 18 years of age or until the child's graduation from high school, whichever occurs later, but not later than the child's 19th birthday unless the child is emancipated by court order at an earlier time. A temporary support obligation established under subsection (3) continues until terminated as provided in subsection (5) or until the temporary support order is superseded by a final order, judgment, or decree."

Section 4. Section 40-5-226, MCA, is amended to read:

"40-5-226. Administrative hearing -- nature -- place -- time -- determinations -- failure to appear -- entry of final decision and order. (1) The administrative hearing is defined as a "contested case".

(2) If a hearing is requested, it must initially be conducted by teleconference methods and is subject to the Montana Administrative Procedure Act. At the request of a party or upon a showing that the party's case was substantially prejudiced by the lack of an in-person hearing, the hearings officer shall grant a de novo in-person hearing.

(3) The hearings officer shall determine the liability and responsibility, if any, of the parent or parents under the notice and shall enter a final decision and order in accordance with the determination. The order may award support from the date of:

(a) the child's birth if paternity was established under 40-5-231 through 40-5-238 or under Title 40, chapter 6, part 1, subject to the limitation in 40-6-108(3)(b);

(b) the parties' separation if support is initially established under 40-5-225; or

(c) notice to the parties of a support modification request under 40-5-273.

(4) (a) Except as provided in subsection (4)(b), if the parent or parents fail to appear at the hearing or to timely file a request for a hearing, the hearings officer, upon a showing of valid service, shall enter a default decision and order declaring the amount stated in the notice to be final.

(b) In a multiple party proceeding under 40-5-225, if one party files a timely request for hearing, the matter must be set for hearing. Notice of the hearing must be served on the parties. If a party refuses to appear for the hearing or participate in the proceedings, the hearings officer shall determine child support and medical support orders based on the notice, information available

to the department, and evidence provided at the hearing by the appearing parties. A party's refusal to appear is a consent to entry of child and medical support orders consistent with the hearings officer's determination. However, the default order may not be for more than the support requested in the notice unless the hearings officer finds that the evidence requires a larger amount.

(5) In a hearing to determine financial responsibility, whether temporary or final, and in any proceeding to modify support under 40-5-272, 40-5-273, 40-5-277, and 40-5-278, the monthly support responsibility must be determined in accordance with the evidence presented and with reference to the uniform child support guidelines adopted by the department under 40-5-209. The hearings officer is not limited to the amounts stated in the notice. The guidelines must be used in all cases, including cases in which the order is entered upon the default of a party and those in which the order is entered upon the parties' consent. A verified representation of a defaulting parent's income, based on the best information available, may be used when a parent fails to provide financial information for use in applying the guidelines. The amount determined under the guidelines is presumed to be an adequate and reasonable support award, unless the hearings officer finds by clear and convincing evidence that the application of the guidelines is unjust to the child or to any of the parties or is inappropriate in a particular case. If the hearings officer finds that the guideline amount is unjust or inappropriate in a particular case, the hearings officer shall state the reasons for finding that the application of the guidelines is unjust to the child or a party or is inappropriate in that particular case. Similar findings must also be made in a case in which the parties have agreed to a support amount that varies from the guideline amount. The hearings officer may vary the application of the guidelines to limit the obligor's liability for past support to the proportion of expenses already incurred that the hearings officer considers just. Findings that rebut and vary the guideline amount must include a statement of the amount of support that would have ordinarily been ordered under the guidelines.

(6) In a hearing to enforce a support order or to establish paternity under this chapter, the department shall send a copy of the notice of hearing to the obligee by regular mail addressed to the obligee's last-known address. The obligee may attend and observe the hearing as a nonparty. This subsection does not limit participation of an obligee who is a party to the proceedings or who is called as a witness to testify.

(7) (a) Within 60 days after the hearing has been concluded, any posthearing briefs are received, and all the evidence submitted, except for good cause, the hearings officer shall enter a final decision and order. The determination of the hearings officer constitutes a final agency decision, subject to judicial review under 40-5-253 and the provisions of the Montana Administrative Procedure Act. A copy of the final decision must be delivered or mailed to each party, each party's attorney, and the obligee if the obligee is not a party.

(b) A child support or medical support obligation established under this section is subject to the registration and processing provisions of part 9 of this chapter.

(8) A child support or medical support order entered under this part must contain a statement that the order is subject to review and modification by the department upon the request of the department or a party under 40-5-272, 40-5-273, 40-5-277, and 40-5-278 when the department is providing services under IV-D for the enforcement of the order.

(9) A support debt determined pursuant to this section is subject to collection action without further necessity of action by the hearings officer.

(10) A child support or medical support obligation determined under this part by reason of the obligor's failure to request a hearing under this part or failure to appear at a scheduled hearing may be vacated, upon the motion of an obligor, by the hearings officer within the time provided and upon a showing of any of the grounds enumerated in the Montana Rules of Civil Procedure. When issuing a support order, the department shall consider whether any of the exceptions to immediate income withholding found in 40-5-411 apply, and, if an exception is applicable, the department shall include the exception in the support order.

(11) (a) Unless the hearings officer makes a written exception under 40-5-315 or 40-5-411 and the exception is included in the support order, each order establishing a child support obligation, whether temporary or final, and each modification of an existing child support order under this part is enforceable by immediate or delinquency income withholding, or both, under Title 40, chapter 5, part 4. A support order that omits that provision or that provides for a payment arrangement inconsistent with this section is nevertheless subject to withholding for the payment of support without need for an amendment of the support order or for any further action by the hearings officer.

(b) If an obligor is excepted from paying support through income withholding, the support order must include a requirement that whenever a party to the case is receiving IV-D services, support payments must be paid through the department as provided in 40-5-909.

(12) (a) If the department establishes paternity or establishes or modifies a child support obligation, the department's order must include a provision requiring each party other than the department to promptly file with the department and to update, as necessary, information on:

- (i) identity of the party;
- [(ii) social security number;]
- (iii) residential and mailing addresses;
- (iv) telephone number;
- (v) driver's license number;
- (vi) name, address, and telephone number of employer; and

(vii) if the child is covered by a health or medical insurance plan, the name of the insurance carrier or health benefit plan, the policy identification number, the name of the persons covered, and any other pertinent information regarding coverage or, if the child is not covered, information as to the availability of coverage for the child through the obligor's and obligee's employer.

(b) The order must further direct that in a subsequent child support enforcement action, upon sufficient showing that diligent effort has been made to ascertain the location of the party, the department's due process requirements for notice and service of process are met with respect to the party upon delivery of written notice by regular mail to the most recent address of the party or the party's employer's address reported to the department.

(c) The department shall keep the information provided under subsection (12)(a) confidential except as necessary for purposes of Title IV-D of the Social Security Act.

(13) The hearings officer may:

(a) compel obedience to the hearings officer's orders, judgments, and process and to subpoenas and orders issued by the department, including income-withholding orders issued pursuant to 40-5-415;

(b) compel the attendance of witnesses at administrative hearings;

(c) compel obedience of subpoenas for paternity ~~blood~~ genetic tests;

(d) compel the production of accounts, books, documents, and other evidence;

(e) punish for civil contempt. Contempt authority does not prevent the department from proceeding in accordance with the provisions of 2-4-104.

(f) compel the production of information requested by the department or another IV-D agency under 40-5-443.

(14) A contempt occurs whenever:

(a) a person acts in disobedience of any lawful order, judgment, or process of the hearings officer or of the department;

(b) a person compelled by subpoena to appear and testify at an administrative hearing or to appear for genetic paternity tests fails to do so;

(c) a person compelled by subpoena duces tecum to produce evidence at an administrative hearing fails to do so;

(d) an obligor or obligee subject to a discovery order issued by the hearings officer fails to comply with discovery requests;

(e) a person or entity compelled by administrative subpoena from the department or another IV-D agency to produce financial information or other information needed to establish paternity or to establish, modify, or enforce a support order fails to do so;

(f) a payor under an order to withhold issued pursuant to 40-5-415 fails to comply with the provisions of the order. In the case of a payor under an income-withholding order, a separate contempt occurs each time that income is required to be withheld and paid to the department and the payor fails to take the required action.

(g) a payor or labor union fails to provide information to the department or another IV-D agency when requested under 40-5-443[; or]

[(h) a financial institution uses information provided by the department pursuant to 40-5-924 for any other purpose without the authorization of the department].

(15) Before initiating a contempt proceeding, the department shall give the alleged contemnor notice by personal service or certified mail of the alleged infraction and a reasonable opportunity to comply with the law and to cure the alleged infraction. In order to initiate a contempt proceeding, an affidavit of the facts constituting a contempt must be submitted to the hearings officer, who shall review it to determine whether there is cause to believe that a contempt has been committed. If cause is found, the hearings officer shall issue a citation requiring the alleged contemnor to appear and show cause why the alleged contemnor should not be determined to be in contempt and required to pay a penalty of not more than \$500 for each count of contempt. The citation, along with a copy of the affidavit, must be served upon the alleged contemnor either by personal service or by certified mail. All other interested persons may be served a copy of the citation by first-class mail.

(16) At the time and date set for hearing, the hearings officer shall proceed to hear witnesses and take evidence regarding the alleged contempt and any defenses to the contempt. If the alleged contemnor fails to appear for the hearing, the hearing may proceed in the alleged contemnor's absence. If the hearings officer finds the alleged contemnor in contempt, the hearings officer may impose a penalty of not more than \$500 for each count found. The hearings officer's decision constitutes a final agency decision, subject to judicial review under 40-5-253 and subject to the provisions of Title 2, chapter 4.

(17) An amount imposed as a penalty may be collected by any remedy available to the department for the enforcement of child support obligations, including warrant for distraint pursuant to 40-5-247, income withholding pursuant to Title 40, chapter 5, part 4, and state debt offset, pursuant to Title 17, chapter 4, part 1. The department may retain any penalties collected under this section to offset the costs of administrative hearings conducted under this chapter.

(18) The penalties charged and collected under this section must be paid into the state treasury to the credit of the child support enforcement division special revenue fund and must be accompanied by a detailed statement of the amounts collected. (Bracketed language terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)”

Section 5. Section 40-5-232, MCA, is amended to read:

“40-5-232. Establishment of paternity – notice of parental responsibility – contents. (1) When the paternity of a child has not been legally established under the provisions of Title 40, chapter 6, part 1, or otherwise, the department may proceed to establish paternity under the provisions of 40-5-231 through 40-5-237. An administrative hearing held under the provisions of 40-5-231 through 40-5-237 is a contested case within the meaning of 2-4-102 and is subject to the provisions of Title 2, chapter 4, except as otherwise provided in 40-5-231 through 40-5-237.

(2) It is presumed to be in the best interest of a child to legally determine and establish paternity. A presumption under this subsection may be rebutted by a preponderance of the evidence.

(3) In a proceeding under 40-5-231 through 40-5-237, if an alleged father consents in writing to entry of an order declaring the alleged father to be the legal father of a child, the department may enter an order establishing legal paternity. As a part of a consent to entry of an order declaring paternity, the department shall provide information to the parents regarding the rights and responsibilities of an alleged father consenting to entry of an order declaring paternity. A consent to entry of an order declaring paternity is binding on a parent who executes it, whether or not the parent is a minor.

(4) Full faith and credit must be given to a determination of paternity made by any other state, whether presumed by law, established through voluntary acknowledgment, or established by administrative or judicial processes.

(5) The department shall commence proceedings to establish paternity by serving on an alleged father a notice of parental responsibility. The department may not serve the notice unless it has:

(a) a sworn statement claiming that the alleged father is the child’s natural father;

(b) evidence of the existence of a presumption of paternity under 40-6-105; or

(c) any other reasonable cause to believe that the alleged father is the child’s natural father.

(6) Regardless of whether the department has grounds to or intends to commence a paternity proceeding against the alleged father, when the child support enforcement division in a case under Title IV-D of the Social Security Act receives a written claim from a child’s mother that names a person as the alleged natural father of the child, the department shall promptly take reasonable steps to locate and notify the alleged father of the existence of the claim. The notification must be given to the alleged father in a manner that places the demands of individual privacy above the merits of public disclosure. The notification must include the name of the mother and the date of birth or the projected date of birth if the child has not yet been born.

(7) Service on the alleged father of the notice of parental responsibility must be made as provided in 40-5-231(2). The notice must include:

(a) an allegation that the alleged father is the natural father of the child involved;

(b) the child’s name and place and date of birth;

(c) the name of the child’s mother and the name of the person or agency having custody of the child, if other than the mother;

(d) the probable time or period of time during which conception took place;

(e) a statement that if the alleged father fails to timely deny the allegation of paternity, the question of paternity may be resolved against the alleged father without further notice;

(f) a statement that if the alleged father timely denies the allegation of paternity:

(i) the alleged father is subject to compulsory paternity ~~blood~~ *genetic* testing;

(ii) a paternity ~~blood~~ *genetic* test may result in a presumption of paternity; and

(iii) upon receipt of the paternity ~~blood~~ *genetic* test results, if the alleged father continues to deny paternity, the alleged father may request the department to refer the matter to district court for a determination of paternity.

(8) The alleged father may file a written denial of paternity with the department within 20 days after service of the notice of parental responsibility.

(9) When there is more than one alleged father of a child, the department may serve a notice of parental responsibility on each alleged father in the same consolidated proceeding or in separate proceedings. Failure to serve notice on an alleged father does not prevent the department from serving notice on any other alleged father of the same child.”

Section 6. Section 40-5-233, MCA, is amended to read:

“40-5-233. Establishment of paternity – administrative hearing – subpoena – compulsory ~~blood~~ *paternity genetic* testing. (1) (a) Paternity ~~blood~~ *genetic* testing may be requested by the alleged father, the mother, or the child through the child’s custodian and may be made in conjunction with or in addition to a notice the department issues under 40-5-232. The request must be in writing and must be supported by a sworn statement of the requester that includes:

(i) an allegation of paternity and sufficient facts to establish a reasonable probability that the alleged father engaged in an act with the child’s mother during the probable time of the child’s conception that could have resulted in the child’s conception; or

(ii) a denial of paternity and sufficient facts to establish a reasonable probability of the nonexistence of contact between the alleged father and the child’s mother that could have resulted in the child’s conception.

(b) If the department determines after a review of a sworn statement that there are sufficient facts to establish a reasonable probability of paternity or nonpaternity as claimed by the requesting party, the department shall issue a subpoena ordering the alleged father, the mother, or the child through the child’s custodian to submit to ~~blood~~ *paternity genetic* testing.

(c) A pending request for ~~blood~~ *paternity genetic* testing under this section does not prevent the department from issuing a notice of parental responsibility under 40-5-232.

(d) Denial of a request for paternity ~~blood~~ *genetic* testing under this subsection (1) is not a finding of nonpaternity and does not prevent the issuance of a notice under 40-5-232. A denial does not affect the completion of any pending action initiated under 40-5-232.

(2) (a) The department may order an alleged father to appear for an administrative hearing when:

(i) the department determines that the sworn statement provided in subsection (1) does not contain sufficient facts to issue a ~~blood~~ *genetic* test subpoena and that additional examination of witnesses or evidence is necessary; or

(ii) the department receives a timely filed written denial of paternity in response to a notice under 40-5-232.

(b) The hearing must initially be conducted by teleconferencing methods and is subject to the provisions of the Montana Administrative Procedure Act. At the request of a party, the hearings officer shall, at the close of a teleconference hearing, grant a de novo in-person hearing.

(c) The department may issue a subpoena ordering the alleged father to submit to paternity ~~blood~~ *genetic* testing if the testimony and other supplementary evidence demonstrate a reasonable probability:

(i) that the alleged father engaged in an act with the child's mother during the probable time of the child's conception that could have resulted in the child's conception; or

(ii) when the alleged father's paternity is presumed under 40-6-105, of the nonexistence of contact between the alleged father and the child's mother that could have resulted in the child's conception.

(d) For the purposes of this subsection (2), a reasonable probability of an act during the possible time of conception may be established by affidavit of the child's mother without need for the mother to appear at the hearing.

(3) Previous paternity actions under this part that did not result in a subpoena for paternity ~~blood~~ *genetic* testing do not prevent the department from recommencing a paternity action if the department believes it can establish any of the factors listed in subsection (2)(c) or (2)(d).

(4) When there is reasonable cause to suggest that a ~~blood~~ *genetic* test sample of a person submitting to a ~~blood~~ *genetic* test was not the sample of the alleged father, mother, or child, an additional hearing may be held. The scope of the hearing is limited to questions involving the ~~blood-drawing~~ *genetic testing* or the chain of custody at the ~~blood-drawing~~ *genetic testing* site. The hearings officer may order retesting of any party.

(5) If the department does not receive a timely filed written denial of paternity or if an alleged father fails to appear at a scheduled hearing or for a scheduled paternity ~~blood~~ *genetic* test, the department may enter an order declaring the alleged father the legal father of the child. The order will take effect within 10 days after entry of the default unless the alleged father before the 10th day presents good cause for failure to make a timely denial or for failure to appear at the hearing or to undergo paternity ~~blood~~ *genetic* testing. The department may not enter an order under this section if there is more than one alleged father unless the default applies to only one of them and all others have been excluded by the results of paternity ~~blood~~ *genetic* testing. An order issued under the provisions of this section may be set aside as provided in 40-5-235(3).

(6) If the rights of others and the interests of justice so require, the department may apply to any district court under the provisions of 2-4-104 for an order compelling an alleged father to submit to paternity ~~blood~~ *genetic* testing. The court shall hear the matter as expeditiously as possible. If the court finds reasonable cause to believe that the alleged father is the natural or presumed father of the child, the court shall enter an order compelling the alleged father to submit to a paternity ~~blood~~ *genetic* test. Reasonable cause may be established by affidavit of the child's mother."

Section 7. Section 40-5-234, MCA, is amended to read:

"40-5-234. Paternity ~~blood~~ *genetic* tests – use of expert's affidavit – effect of test results – records – presumption. (1) The department shall appoint an expert who is qualified in examining genetic markers to conduct any paternity ~~blood~~ *genetic* test required by 40-5-233.

(2) An affidavit documenting the chain of custody of any blood or tissue specimen is admissible to establish the chain of custody.

(3) If the scientific evidence resulting from a paternity blood genetic test:

(a) conclusively shows that the alleged father could not have been the natural father, the question of paternity must be resolved accordingly. A finding under this subsection is sufficient to overcome a presumption created by 40-6-105.

(b) shows a 95% or higher statistical probability of paternity, the alleged father is presumed to be the natural father of the child. This presumption may be rebutted in an appropriate action in district court by a preponderance of the evidence.

(c) does not exclude the alleged father and shows less than a 95% statistical probability of paternity, the test results may be weighed in conjunction with other evidence to establish paternity.

(4) The department may enter an order of nonpaternity based on a blood genetic test exclusion and may order the department of public health and human services to prepare an amended or substitute birth certificate.

(5) The department may enter in the support order registry established in 40-5-906 a written finding of any paternity presumption created by paternity blood genetic test results.

(6) A presumption of paternity established under this section is a sufficient basis for establishing a support order.”

Section 8. Section 40-5-236, MCA, is amended to read:

“40-5-236. Referral of paternity issue to district court – record – parties – exclusion of other matters – fees. (1) If the scientific evidence resulting from a paternity blood genetic test does not exclude the alleged father and the alleged father continues to deny paternity, the alleged father shall file a written objection with the department within 20 days after service of the paternity blood genetic test results specifically requesting referral of the paternity issue to the district court. Upon receipt of the written objection, the department shall refer the matter to the district court for a determination based on the contents of the administrative hearing record and any further evidence that may be produced at trial. Except as otherwise provided in 40-5-231 through 40-5-237, proceedings in the district court must be conducted pursuant to Title 40, chapter 6, part 1.

(2) The administrative record must include:

(a) a copy of the notice of parental responsibility and the return of service of the notice;

(b) the alleged father’s written denial of paternity, if any;

(c) the transcript of the administrative hearing;

(d) the paternity blood genetic test results and any report of an expert based on the results; and

(e) any other relevant information.

(3) Upon filing of the record with the district court, the court acquires jurisdiction over the parties as if they had been served with a summons and complaint. The department shall serve written notice upon the alleged father, as provided in 40-5-231(2), that the issue of paternity has been referred to the district court for determination.

(4) In a proceeding in the district court, the department shall appear on the issue of paternity only. The court may not appoint a guardian ad litem for the child unless the court in its discretion determines that an appointment is necessary and in the best interest of the child. Neither the mother nor the child is a necessary party, but either may testify as a witness.

(5) No other matter may be joined with an action to determine the existence or nonexistence of the parent and child relationship under this section. The parties shall institute an independent action to address other issues, including visitation and custody.

(6) Except as provided in 25-10-711, the department is not liable for attorney fees, including fees for attorneys assigned under 40-6-119, or fees of a guardian ad litem appointed under 40-6-110.”

Section 9. Section 40-5-237, MCA, is amended to read:

“40-5-237. District court paternity proceedings – objection to tests – additional tests – expert’s report – admissibility of evidence.

(1) In a matter referred to the district court, if an alleged father objects to the procedures for or the results of a paternity *blood genetic* test, the alleged father shall file a written objection with the court within 20 days after service of the notice required by 40-5-236(3). The court shall order an additional paternity *blood genetic* test upon the alleged father’s advance payment for additional testing if a written objection is timely filed or at the request of the department. The alleged father’s advance payment must be returned to the alleged father if the test does not produce evidence of the alleged father’s paternity. An additional test must be performed by the same or another expert who is qualified in paternity *blood genetic* testing. Failure of the alleged father to make a timely challenge is considered a waiver of any defense to the test results or test procedures, including the chain of custody.

(2) If an objection to the paternity *blood genetic* test is not timely filed, the paternity *blood genetic* test expert’s completed and certified report of the results and conclusions of a paternity *blood genetic* test is admissible as evidence without additional foundation testimony or other proof of authenticity and accuracy if the laboratory in which the expert performed the test is accredited for parentage testing by the American association of blood banks. Accreditation may be established by verified statement or reference to published sources. This subsection does not limit the right of a party to contest the identity of persons submitting to testing.

(3) In any hearing before the court or at trial, testimony relating to sexual intercourse of the mother with any person who has been excluded from consideration as a possible father of the child involved by the results of a paternity *blood genetic* test is inadmissible in evidence.

(4) When a paternity *blood genetic* test excludes an alleged father from possible paternity, the test is conclusive evidence of nonpaternity of the alleged father for all purposes in the district court.”

Section 10. Section 40-5-238, MCA, is amended to read:

“40-5-238. Confidentiality of paternity hearings and records of proceedings. Because of the privacy interests involved, a hearing under 40-5-231 through 40-5-237 and this section for the purpose of determining paternity or reasonable cause to pursue paternity *blood genetic* testing is closed to the public. Attendance of others may be limited by the hearing officer as necessary to protect privacy rights. All papers and records of the proceedings, other than a final adjudication of paternity, are closed to public inspection, except that they may be opened upon consent of the parties and the hearing officer or, in exceptional cases, by order of the hearing officer.”

Section 11. Section 40-6-102, MCA, is amended to read:

“40-6-102. Definitions. As used in this part, the following definitions apply:

(1) ~~“Blood test” means a test that demonstrates through examination of genetic markers either that an alleged father is not the natural father of a child or that there is a probability that an alleged father is the natural father of~~

a child. The genetic markers may be identified from a person's blood or a tissue sample. The blood or tissue sample may be taken by blood drawing, buccal swab, or any other method approved by the American association of blood banks. A blood test may include but is not limited to the human leukocyte antigen test and DNA probe technology.

(2)(1) "Parent and child relationship" means the legal relationship existing between a child and the child's natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations. It includes the mother and child relationship and the father and child relationship.

(2) "*Paternity test*" means a test that demonstrates through examination of genetic markers either that an alleged father is not the natural father of a child or that there is a probability that an alleged father is the natural father of a child. The genetic markers may be identified from a person's blood or a tissue sample. The blood or tissue sample may be taken by blood drawing, buccal swab, or any other method approved by the American association of blood banks. A blood test may include but is not limited to the human leukocyte antigen test and DNA probe technology.

(3) "Support judgment" or "support order" means an order, whether temporary or final, that provides for the periodic payment of an amount of money expressed in dollars for the support of a child, including medical and health needs, child care, education, recreation, clothing, transportation, and other related expenses and costs specific to the needs of the child."

Section 12. Section 40-6-105, MCA, is amended to read:

"40-6-105. Presumption of paternity. (1) A person is presumed to be the natural father of a child if any of the following occur:

(a) the person and the child's natural mother are or have been married to each other and the child is born during the marriage or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce or after a decree of separation is entered by a court;

(b) before the child's birth, the person and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:

(i) if the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce; or

(ii) if the attempted marriage is invalid without a court order, the child is born within 300 days after the termination of cohabitation;

(c) after the child's birth, the person and the child's natural mother have married or attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:

(i) the child's mother and the child's alleged father have acknowledged the alleged father's paternity of the child in writing in accordance with subsection (1)(e) and the acknowledgment is filed with the department of public health and human services;

(ii) with the person's consent, the person is named as the child's father on the child's birth certificate; or

(iii) the person is obligated to support the child under a written voluntary promise or by court order;

(d) while the child is under the age of majority, the person receives the child into the person's home and openly represents the child to be the person's natural child;

(e) the child's mother and the child's alleged father acknowledge the alleged father's paternity of the child in a paternity acknowledgment form that is provided by the department of public health and human services. The department of public health and human services shall accept and file the completed form. As a part of a voluntary acknowledgment process, the department of public health and human services shall make written and oral information available to the parents regarding the rights and responsibilities of acknowledging paternity. If another person is presumed under this section to be the child's father, acknowledgment may be effected only with the written consent of the presumed father or after the presumption has been rebutted. The presumption of paternity is created when the acknowledgment is filed with the department.

(f) the scientific evidence resulting from a ~~blood~~ *paternity* test, whether ordered by a court or administrative agency of competent jurisdiction or agreed to by the parties, shows a 95% or higher statistical probability of paternity;

(g) the person is presumed to be the child's natural father under the laws of the state or Indian territory in which the child was born.

(2) An acknowledgment is binding on a parent who executes it, whether or not the parent is a minor.

(3) Except for presumptions of paternity that are conclusive or irrebuttable under subsections (1)(g) and (5), a presumption under this section may be rebutted:

(a) in an appropriate action by a preponderance of the evidence; or

(b) by scientific evidence resulting from a ~~blood~~ *paternity* test that excludes the person as the child's natural parent.

(4) (a) A presumption of paternity established under this section is a sufficient basis for establishing a support order.

(b) If a presumption is later rebutted or set aside and the person is under an order to pay support for the child, the person may only be relieved of support installments that accrued from the date of the order declaring the presumption to be rebutted.

(5) (a) An acknowledgment of paternity under subsection (1)(e) may be rescinded by a signatory at any time within 60 days after it was signed by filing a notice of withdrawal with the department of public health and human services. The notice of withdrawal must include an affidavit attesting that a copy of the notice was provided to any parent who signed the acknowledgment form.

(b) Without need for ratification by court or administrative proceedings, an acknowledgment of paternity under subsection (1)(e) becomes, as a matter of law, an irrebuttable presumption of paternity on the earlier of the date:

(i) the acknowledgment is not timely rescinded as provided in subsection (5)(a); or

(ii) a court or administrative judgment, decree, or order is entered that establishes paternity or a support order, when that proceeding includes the signatory.

(c) An irrebuttable presumption of paternity under this subsection (5) has the same force and effect as a district court judgment adjudicating paternity and may only be set aside for fraud, duress, or material mistake of fact. The burden of proof is on the person seeking to set the presumption aside. Except for good cause, legal responsibilities arising from the paternity acknowledgment may not be stayed pending the outcome of an action to set aside the presumption."

Section 13. Section 40-6-111, MCA, is amended to read:

"40-6-111. Pretrial proceedings. (1) As soon as practicable after an action to declare the existence or nonexistence of the father and child relationship has

been brought, an informal hearing must be held. The court may order that the hearing be held before a referee. The public must be barred from the hearing. A record of the proceeding must be kept.

(2) Upon refusal of any witness, including a party, to testify under oath or produce evidence, the court may order the witness to testify under oath and produce evidence concerning all relevant facts. If the refusal is upon the ground that the testimony or evidence might tend to incriminate the witness, the court may grant the witness immunity from all criminal liability on account of the testimony or evidence the witness is required to produce. An order granting immunity bars prosecution of the witness for any offense shown in whole or in part by testimony or evidence that the witness is required to produce, except for perjury committed in the testimony. The refusal of a witness who has been granted immunity to obey an order to testify or produce evidence is a civil contempt of the court.

(3) Upon motion, a temporary support order may be issued at any time during a paternity action when there is clear and convincing evidence of paternity in the form of **blood paternity** test results or other evidence. The temporary support order must be established according to the uniform child support guidelines adopted under 40-5-209.”

Section 14. Section 40-6-112, MCA, is amended to read:

“40-6-112. Blood Paternity tests. (1) The court may, and upon request of a party shall, require the child, mother, or alleged father to submit to **blood paternity** tests. The tests shall be performed by an expert qualified as an examiner of blood types, appointed by the court.

(2) The court, upon reasonable request by a party, shall order that independent tests be performed by other experts qualified as examiners of blood types.

(3) In all cases the court shall determine the number and qualifications of the experts.”

Section 15. Section 40-6-113, MCA, is amended to read:

“40-6-113. Evidence relating to paternity. Evidence relating to paternity may include:

(1) evidence of sexual intercourse between the mother and alleged father at any possible time of conception;

(2) an expert’s opinion concerning the statistical probability of the alleged father’s paternity based upon the duration of the mother’s pregnancy;

(3) **blood paternity** test results, weighted in accordance with evidence, if available, of the statistical probability of the alleged father’s paternity;

(4) medical or anthropological evidence relating to the alleged father’s paternity of the child based on tests performed by experts. If a man has been identified as a possible father of the child, the court may, and upon request of a party shall, require the child, the mother, and the man to submit to appropriate tests; and

(5) all other evidence relevant to the issue of paternity of the child.”

Section 16. Section 40-6-114, MCA, is amended to read:

“40-6-114. Pretrial recommendations. (1) On the basis of the information produced at the pretrial hearing, the judge or referee conducting the hearing shall evaluate the probability of determining the existence or nonexistence of the father and child relationship in a trial and whether a judicial declaration of the relationship would be in the best interest of the child. On the basis of the evaluation, an appropriate recommendation for settlement must be made to the parties, which may include any of the following:

(a) that the action be dismissed with or without prejudice;

(b) that the matter be compromised by an agreement among the alleged father, the mother, and the child, in which the father and child relationship is not determined but in which a defined economic obligation is undertaken by the alleged father in favor of the child and, if appropriate, in favor of the mother, subject to approval by the judge or referee conducting the hearing. In reviewing the obligation undertaken by the alleged father in a compromise agreement, the judge or referee conducting the hearing shall consider the best interest of the child in the light of the factors enumerated in 40-6-116(5), discounted by the improbability, as it appears to the judge or referee, of establishing the alleged father's paternity or nonpaternity of the child in a trial of the action. In the best interest of the child, the court may order that the alleged father's identity be kept confidential. In that case, the court may designate a person or agency to receive from the alleged father and disburse on behalf of the child all amounts paid by the alleged father in fulfillment of obligations imposed on the alleged father.

(c) that the alleged father voluntarily acknowledge paternity of the child.

(2) If the parties accept a recommendation made in accordance with subsection (1), judgment must be entered accordingly.

(3) If a party refuses to accept a recommendation made under subsection (1) and ~~blood~~ *paternity* tests have not been taken, the court shall require the parties to submit to ~~blood~~ *paternity* tests, if practicable. Thereafter, the judge or referee shall make an appropriate final recommendation. If a party refuses to accept the final recommendation, the action must be set for trial.

(4) If the scientific evidence resulting from the ~~blood~~ *paternity* tests conclusively shows that the defendant could not have been the father, then the action must be dismissed.

(5) The guardian ad litem may accept or refuse to accept a recommendation under this section.

(6) The informal hearing may be terminated and the action set for trial if the judge or referee conducting the hearing finds unlikely that all parties would accept a recommendation made under subsection (1) or (3)."

Section 17. Section 40-6-115, MCA, is amended to read:

"40-6-115. Civil action. (1) An action under this part is a civil action governed by the rules of civil procedure. The mother of the child and the alleged father are competent to testify and may be compelled to testify. Sections 40-6-111(2), 40-6-112, and 40-6-113 apply to all actions brought under this part.

(2) Testimony relating to sexual access to the mother by an unidentified person at any time or by an identified person at a time other than the probable time of conception of the child is inadmissible in evidence, unless offered by the mother.

(3) In an action against an alleged father, evidence offered by the alleged father with respect to a person who is not subject to the jurisdiction of the court concerning sexual intercourse with the mother at or about the probable time of conception of the child is admissible in evidence only if the alleged father has undergone and made available to the court ~~blood~~ *paternity* tests, the results of which do not exclude the possibility of the alleged father's paternity of the child. A person who is identified and is subject to the jurisdiction of the court must be made a defendant in the action.

(4) If a ~~blood~~ *paternity* test has been initially ordered under this part and a party objects to the ~~blood~~ *paternity* test results, the objection must be filed within 20 days after service of the ~~blood~~ *paternity* test results. If an objection is filed, and upon the alleged father's advance payment for additional testing, the court shall order an additional ~~blood~~ *paternity* test. If no objection is made,

the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy. This subsection does not limit the right of a party to contest the identity of persons submitting to testing.

(5) If the alleged father fails to answer or to appear at a scheduled hearing or for a scheduled ~~blood~~ *paternity* test, the district court shall enter an order declaring the alleged father the legal father of the child. The district court may not enter an order under this section if there is more than one alleged father unless the default applies to only one of them and all others have been excluded by the results of ~~blood~~ *paternity* testing.

(6) Bills for pregnancy, childbirth, and paternity ~~blood~~ testing are admissible as evidence without third-party foundation testimony and are prima facie evidence of the amounts incurred.”

Section 18. Section 40-6-119, MCA, is amended to read:

“40-6-119. Right to counsel – transcript on appeal. (1) At the pretrial hearing and in further proceedings, any party may be represented by counsel. The court shall order the office of state public defender, pursuant to the Montana Public Defender Act, Title 47, chapter 1, to assign counsel for a party who is financially unable to obtain counsel.

(2) The court may order reasonable fees for experts and the child’s guardian ad litem and other costs of the action and pretrial proceedings, including ~~blood~~ *paternity* test costs, to be paid by the parties in proportions and at times determined by the court.

(3) If a party is financially unable to pay the cost of a transcript, the court shall furnish on request a transcript for purposes of appeal. Transcript fees must be paid as provided in 3-5-604.”

Approved May 7, 2019

CHAPTER NO. 365

[HB 607]

AN ACT REVISING LAWS RELATED TO COMMERCIAL FEED FOR PETS; DEFINING PET TREAT PRODUCTS; ALLOWING LICENSING, LABELING, AND REGISTRATION EXEMPTIONS FOR CERTAIN PET TREATS; AMENDING SECTIONS 80-9-101, 80-9-201, 80-9-202, AND 80-9-206, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 80-9-101, MCA, is amended to read:

“80-9-101. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) “AOAC international” means the association of official analytical chemists.

(2) “Brand name” means any word, name, symbol, or device or any combination of them identifying the commercial feed of a licensee or registrant and distinguishing it from that of others.

(3) (a) “Commercial feed” means all materials or combinations of materials that are distributed or intended for distribution for use as feed or for mixing in feed, unless the materials are specifically excluded by law.

(b) The term does not include unmixed whole seeds and physically altered entire unmixed seeds when those seeds are not chemically changed or adulterated within the meaning of 80-9-204. The department may by rule exclude from this definition or from specific provisions of this chapter

commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when those commodities, compounds, or substances are not intermixed with other materials and are not adulterated within the meaning of 80-9-204.

(4) “Contract feeder” means a person who, as an independent contractor, feeds commercial feed to animals pursuant to a contract under which the commercial feed is supplied, furnished, or otherwise provided to that person and under which that person’s remuneration is determined completely or in part by feed consumption, mortality, profits, or amount or quality of product.

(5) “Customer formula feed” means commercial feed that consists of a mixture of commercial feeds or feed ingredients, each batch of which is manufactured according to the specific instructions of the final purchaser.

(6) “Distribute” means to offer for sale, sell, exchange, or barter commercial feed or to supply, furnish, or otherwise provide commercial feed to a contract feeder.

(7) “Drug” means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals, other than humans, and articles other than feed intended to affect the structure or function of the animal body.

(8) “Facility” means something that is built, installed, or established to serve a particular purpose.

(9) “Feed ingredient” means each of the constituent materials making up a commercial feed or a noncommercial feed.

(10) “Guarantor” means a person whose name and principal mailing address appear on the label and who guarantees the information contained on the label as required by 80-9-202. The person may or may not also be the manufacturer.

(11) “Label” means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed or on the invoice or delivery slip with which a commercial feed is distributed.

(12) “Labeling” means all labels and other written, printed, or graphic matter upon a commercial feed, any of its containers, or its wrapper or accompanying the commercial feed.

(13) “Manufacture” means to grind, mix, blend, or further process a commercial feed.

(14) “Mineral feed” means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.

(15) (a) “Noncommercial feed” means all materials or combinations of materials that are used as feed or for mixing in feed and that are not intended for distribution, unless the materials are specifically excluded by law.

(b) The term does not include unmixed whole seeds and physically altered entire unmixed seeds when those seeds are not chemically changed or adulterated within the meaning of 80-9-204. The department may by rule exclude from this definition or from specific provisions of this chapter commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when those commodities, compounds, or substances are not intermixed with other materials and are not adulterated within the meaning of 80-9-204.

(16) “Official sample” means a sample of feed taken by the department in accordance with the provisions of 80-9-301.

(17) “Percent” or “percentage” means percentage by weights.

(18) “Person” means an individual, partnership, corporation, or association.

(19) “Pet” means any domesticated animal normally maintained in or near the household of its owner.

(20) "Pet food" means any commercial feed prepared and distributed for consumption by pets.

(21)(a) *"Pet treat" means any commercial feed intended for pets and specialty pets that is not intended to provide complete and balanced nutrition and is fed intermittently for training, reward, enjoyment, or other purposes. Pet treats are classified as a type of pet food and specialty pet food by the department.*

(b) *A pet treat intended for a cat or a dog that is manufactured in this state and does not contain any medication or drug or meat, poultry, fish, or their byproduct as an ingredient qualifies for certain licensing exemptions and limited labeling and registration requirements under this chapter.*

(21)(22) "Product name" means the name of the commercial feed that identifies it as to kind, class, or specific use.

(22)(23) "Quantity statement" means the net weight or mass; net volume, either liquid or dry; or count.

(23)(24) "Specialty pet" means any domesticated animal pet normally maintained in a cage or tank, including but not limited to gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes, and turtles.

(24)(25) "Specialty pet food" means any commercial feed prepared and distributed for consumption by specialty pets.

(25)(26) "Supplier" means a person who distributes commercial feed into Montana.

(26)(27) "Ton" means a net weight of 2,000 pounds avoirdupois."

Section 2. Section 80-9-201, MCA, is amended to read:

"80-9-201. Licenses and registration. (1) Except as provided in subsection (4)(b), a license is required of a facility or person:

- (a) who manufactures commercial feed in this state;
- (b) who distributes commercial feed in or into this state; or
- (c) whose name appears on the label of a commercial feed as guarantor.

(2) (a) A separate license is required for each facility that manufactures commercial feed within this state or for each facility that distributes commercial feed in or into this state. A facility or person that manufactures, distributes, or is a guarantor for commercial feed must be licensed once annually pursuant to this section.

(b) (i) Except as otherwise provided in this subsection (2)(b)(i), all new applicants shall pay a nonrefundable fee of \$100 each calendar year for a license for each facility. The department may by rule adjust the license fee to maintain adequate funding for the administration of this part. The fee may not be less than \$100 a year or more than \$110 a year.

(ii) Except as otherwise provided in this subsection (2)(b)(ii), license renewals received by the department prior to January 1 of each year must be accompanied by a nonrefundable renewal fee of \$75 for each license. The department may by rule adjust the license fee to maintain adequate funding for the administration of this part. The fee may not be less than \$75 a year or more than \$85 a year.

(3) Applicants for licensure shall file with the department information on forms provided by the department, including the following:

- (a) the applicant's name and place of business;
- (b) the mailing address and physical location of the facility to be licensed;
- (c) an indication of whether the facility to be licensed manufactures feed, distributes feed, or both; and

(d) an indication of whether or not the person applying for licensure is a guarantor.

(4) (a) A license granted under this section remains in force until the end of the calendar year for which it is issued or until canceled by the licensee or by the department for cause. The department may collect a \$25 late penalty fee for a license renewal application received after January 1 of any year. A license is nontransferable, and license fees are nonrefundable.

(b) A license is not required for a person who:

(i) distributes only pet food or specialty pet food; or

(ii) *manufactures pet treats as defined in [section 1(21)(b)] whose total annual sales do not exceed \$25,000.*

(5) A person who manufactures for distribution or who distributes commercial feed in this state shall, upon written request by the department, submit the following information regarding products distributed in this state:

(a) a list of feed products;

(b) all labeling, promotional material, and claims for any feed product;

(c) analytical methods for ingredients claimed or listed on a label, if the methods are not available from AOAC international; and

(d) replicated data performed by a reputable investigator whose work is recognized as acceptable by the department, verifying any claims for effectiveness of a feed product.

(6) (a) A person may not manufacture for distribution or distribute in this state a pet food ~~or~~, specialty pet food, *or pet treat* that has not been registered under this section by the manufacturer or the guarantor. Except as otherwise provided in ~~this subsection (6)(a)~~ *subsection (6)(b)*, the application for registration must be accompanied by a nonrefundable fee of:

(i) \$50 for each pet food or specialty pet food; or

(ii) *\$25 for each set of up to 20 individual pet treat products that meet the definition provided in [section 1(21)(b)].*

(b) The department may by rule adjust the registration fee to maintain adequate funding for the administration of this part. The fee may not be less than \$50 a year or more than \$60 a year *for a pet food or specialty pet food and not less than \$25 a year or more than an additional \$10 a year added to the original assessed amount calculated in subsection (6)(a)(ii) for pet treats as defined in [section 1(21)(b)].*

~~(b)(c)~~ The registration of pet food ~~and~~, specialty pet food, *and pet treats* is for a period of 1 year starting January 1 and ending December 31 of each year.

(7) An applicant for registration of a pet food, ~~or~~ specialty pet food, *or pet treats* shall file with the department the following information:

(a) the applicant's name and address; ~~and~~ *and*

(b) a complete standard list of all products being registered.;

(8) The department may refuse registration of a pet food, ~~or~~ specialty pet food, *or pet treats* that is not in compliance with this chapter and may cancel any registration subsequently found to not be in compliance with this chapter. A registration may not be refused or canceled unless the registrant has been given an opportunity to be heard before the department and to amend the application in order to comply with this chapter."

Section 3. Section 80-9-202, MCA, is amended to read:

"80-9-202. Labeling. (1) A commercial feed, except a customer formula feed, must be accompanied by a label containing:

(a) the quantity statement;

(b) the product name and any brand name under which the commercial feed is distributed;

(c) the guaranteed analysis stated in terms the department by rule determines are required to advise the user of the composition of the feed or to support claims made in the labeling. The substances or elements guaranteed

must be determinable by laboratory methods such as the methods published by AOAC international. *Pet treats as defined in [section 1(21)(b)] are exempt from the guaranteed analysis requirement of this subsection (1)(c).*

(d) the common or usual name of each ingredient used in the manufacture of the commercial feed. The department by rule may permit the use of a collective term for a group of ingredients that perform a similar function, or it may exempt commercial feeds or any group of them from this requirement of an ingredient statement if it finds that the statement is not required in the interest of consumers.

(e) the name and principal mailing address of the manufacturer, the person responsible for distributing the commercial feed, or the guarantor;

(f) adequate directions for use for all commercial feeds containing drugs. The department may by rule require directions for the use of other commercial feeds when necessary for their safe and effective use.

(g) precautionary statements that the department by rule determines are necessary for safe and effective use of the commercial feed.

(2) A customer formula feed must be accompanied by a label, invoice, delivery slip, or other shipping document containing:

(a) the name and address of the manufacturer or guarantor;

(b) the name and address of the purchaser;

(c) the date of delivery;

(d) the specific agreed to composition of the feed or a list of the ingredients, but not necessarily the percentage of each ingredient;

(e) adequate directions for use for all customer formula feed containing drugs. The department may by rule require directions for the use of other customer formula feeds when necessary for their safe and effective use.

(f) precautionary statements that the department by rule determines are necessary for safe and effective use of the feeds;

(g) in cases when a drug-containing product is used in a customer formula feed:

(i) the purpose of the drug in the form of a claim statement; and

(ii) the established name of each active drug ingredient and the level of each drug used in the final mixture, expressed in accordance with the association of American feed control officials model feed regulations, as published in that organization's official publication and adopted by department rule."

Section 4. Section 80-9-206, MCA, is amended to read:

"80-9-206. Inspection fees -- filing of annual statement. (1) An inspection fee must be paid on all commercial feeds, including customer formula feeds, except pet foods, ~~and~~ specialty pet foods, *and pet treats*, distributed in this state as follows:

(a) (i) For commercial feed distributed into this state, the supplier has primary responsibility for paying inspection fees. However, the manufacturer is responsible for inspection fees if the supplier has not paid them.

(ii) For commercial feed distributed in this state, the manufacturer or guarantor are responsible for paying inspection fees.

(b) Except as otherwise provided in this subsection (1)(b), the inspection fee is 18 cents a ton. Inspection fees must be paid on each commercial feed, including customer formula feeds and feed ingredients that are defined as commercial feeds even though they are used in the manufacture of other commercial feeds. However, premixes prepared and used within a feed plant or transferred from one plant to another within the same organization are exempt. The department may by rule adjust the inspection fee to maintain adequate funding for the administration of this part. The fee may not be less than 18 cents a ton or more than 25 cents a ton.

(c) A person producing a commercial feed with a feed mixing plant at a feed lot or a poultry, swine, or dairy operation may not be required to pay inspection fees on the commercial feeds produced and used in the feeding operation at the site but is responsible for inspection fees on any commercial feed that person produces and distributes other than in that person's feeding operations at the site.

(d) Fees must be paid only if they total more than \$5 in an annual reporting period.

(2) Each in-state guarantor or manufacturer who distributes commercial feed in this state and each supplier who distributes commercial feed into this state shall:

(a) file, not later than January 31 of each year, an annual statement setting forth the number of tons of commercial feeds distributed in this state during the preceding calendar year and, upon filing the statement, shall pay the inspection fee. Inspection fees that have not been remitted to the department on or before January 31 have a penalty fee of 10% or a minimum of \$25, whichever is more, added to the amount due. The assessment of this penalty fee does not prevent the department from taking other action as provided in this chapter.

(b) keep those records that are necessary or are required by the department to indicate accurately the tonnage of commercial feed distributed in this state. The department may examine the records to verify statements of tonnage.

(c) make accurate and prompt reports as required. Failure to do so is sufficient cause for the department to cancel or refuse to reissue a license.

(3) A pet food or specialty pet food manufacturer, guarantor, or supplier or other person distributing pet food or specialty pet food is exempt from the reporting requirements of subsection (2)."

Section 5. Effective date. [This act] is effective on July 1, 2019.

Approved May 7, 2019

CHAPTER NO. 366

[HB 631]

AN ACT CREATING A PILOT PROGRAM FOR PUBLIC-PRIVATE PARTNERSHIPS TO INCREASE SKILLS TRAINING IN TARGETED INDUSTRIES AND JOB-READINESS ASSISTANCE FOR TARGET POPULATIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING FOR A TRANSFER AND AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 7] may be cited as the "Montana Employment Advancement Right Now Program Act".

Section 2. Definitions. As used in [sections 1 through 7], the following definitions apply:

(1) "Credential" means a recognized:

- (a) educational diploma;
- (b) certificate or degree;
- (c) occupational license;
- (d) apprenticeship certificate;
- (e) industry-recognized certification; or

(f) award for skills attainment and completion, issued by an approved training provider in the state or by a third-party credential provider recognized in rule by the department.

(2) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(3) "Family-sustaining wage" means a wage greater than the state's average weekly wage, as defined in 39-71-116, or greater than the current average weekly wage of the county in which the employees are to be principally employed, as provided in 39-11-202.

(4) "High-demand occupation" means an occupation that:

- (a) has a significant presence within target industries;
- (b) is in demand by employers in the state;
- (c) involves trades or professions with identifiable skills; and
- (d) pays or leads to payment of a family-sustaining wage.

(5) "Identifiable skill" means the attainment of proficiency in a specific work-related skill that is likely to lead to future job advancement and improvement in the individual's earning potential.

(6) "Job-readiness assistance" means training or support to overcome individual barriers to finding a job or maintaining a job in the form of:

(a) skills development provided by an approved training provider, including but not limited to occupational skills development, preparing for an examination or other requirements to document equivalency of completion of a secondary education, literacy advancement, financial stability coaching and services, and credit counseling; and

(b) support for transportation and child care.

(7) "Program" or "Montana EARN program" means the Montana employment advancement right now program.

(8) "Strategic industry partnership" means a collaboration that brings together a regional group as described in [section 4] of participants involved in planning and implementing the program objectives listed in [section 3].

(9) "Target industry" means a group of employers closely linked by a common product or service, workforce skills, similar technologies, supply chains, or other economic ties.

(10) "Target population" means more than one individual identified by a strategic industry partnership as being able to benefit from job-readiness assistance and obtain identifiable skills important for a high-demand occupation.

Section 3. Program objectives. (1) The department of labor and industry shall coordinate with the department of commerce, the office of public instruction, the board of education, the board of regents, and other state agencies to:

(a) promote creation of strategic industry partnerships across the state, with an emphasis on addressing areas of high poverty and high unemployment as identified by the U.S. bureau of the census;

(b) advance the skills of the state's workforce, particularly in high-demand occupations requiring identifiable skills;

(c) determine opportunities for resource sharing; and

(d) increase sustainable employment for residents of this state.

(2) In addition to searching out new funding resources for grants as provided in [section 7(3)], the department shall minimize program expenses by coordinating with the governor's office and the departments listed in subsection (1) of this section to use existing resources to implement the Montana EARN program.

(3) Strategic industry partnerships may form to:

(a) identify common workforce needs for high-demand occupations within a target industry and a target population;

(b) plan, develop, and implement strategies to meet common workforce needs, address shortages determined for a specific region, and encourage entrepreneurship for high-demand occupations; and

(c) apply to the department for grants to address strategic industry partnership objectives.

Section 4. Strategic industry partnerships. (1) The members of a strategic industry partnership must include representatives of:

(a) a local government;

(b) a high school district as defined in 20-6-101, a community college, or a unit of the Montana university system; and

(c) one or more target industries.

(2) The strategic industry partnership may include more participants as necessary.

(3) The strategic industry partnership shall identify in grant applications made under [section 5] any direct financial or in-kind contributions of members of the strategic industry partnership that may be used for matching funds for grants made through the Montana EARN program.

Section 5. Montana EARN program grant requirements – rulemaking. (1) (a) Montana EARN program grants must be submitted by a strategic industry partnership to the department. If more than one grant is submitted in a funding cycle, the department shall rank the proposals.

(b) The department shall award one or more grants based on the results of discussions with grant applicants and evidence of matching contributions as provided in [section 4].

(2) Montana EARN program grants:

(a) may be used to match federal funds;

(b) may require matching funds from the strategic industry partnership, as determined by the department by rule; and

(c) may require that any intellectual property developed as a result of a program grant remain in the public domain, to the extent practicable and consistent with federal and state law.

(3) Grants may be made by the department directly to a strategic industry partnership member that is an entity recognized by the state, as defined by rule, for use by the strategic industry partnership in:

(a) planning;

(b) job-readiness assistance for members of a target population; and

(c) workforce training programs that result in a credential or an identifiable skill for a target population intended to assist in finding or maintaining a job in a high-demand occupation in a target industry, consistent with the strategic industry partnership's plan.

(4) Grants for the workforce training programs under the Montana EARN program may supplement grants available under the primary sector business workforce training program provided for in Title 39, chapter 11, the incumbent worker training program provided for in Title 53, chapter 2, part 12, or grants for economic development made by the department of commerce under Title 90.

(5) An application for a strategic industry partnership planning grant must include:

(a) the identities of members participating in the strategic industry partnership;

(b) a description of the target industry;

(c) a description of the target population;

(d) documented evidence of shortages over a sustained period in skilled employment within the target industry selected by the strategic industry partnership;

(e) a description of specific high-demand occupations or sets of occupations within the target industry; and

(f) specific job readiness assistance needed for the target population to participate in workforce training programs.

(6) The department shall adopt rules to define:

(a) the entity eligible to receive a grant under this section;

(b) the amount that may be awarded to any one strategic industry partnership;

(c) the terms for program accountability, including terms for revoking grant awards or portions of grant awards if the planning, assistance, or training is not provided or the department determines the grant is not meeting program objectives; and

(d) reporting requirements, including timeframes, for Montana EARN program grants.

Section 6. Reporting. The Montana EARN program is a pilot project that terminates on June 30, 2021. The department shall provide a report prior to June 30, 2020, and within 6 months of the program close to the governor and to the legislative council, as provided in 5-11-210, regarding the following:

(1) the criteria for grant awards, including the amount that may be awarded to any one strategic industry partnership;

(2) the criteria for projected average wage, differentiated by whether the target population is in a high unemployment and high poverty area or obtaining skills for a high-demand occupation;

(3) the projected demand for Montana EARN program grants and the amount granted for each applicant, including average proposed wage for grants and the number of positions filled or created;

(4) the target populations of program grants;

(5) the target industries and other participants in strategic industry partnerships;

(6) the matching funds to be provided by participants in the strategic industry partnership;

(7) the type and number of high-demand occupations served by program grants;

(8) the amount of grants provided for job-readiness assistance; and

(9) recommendations for future grant programs involving strategic industry partnerships or a continuation of the Montana EARN program.

Section 7. Special revenue accounts. (1) There is a state special revenue account for the department of labor and industry to use in carrying out the purposes of [sections 1 through 6] and this section.

The fund must consist of:

(a) appropriations from the legislature; and

(b) monetary contributions received by the department from state or private entities designated for the purposes of [sections 1 through 7].

(2) There is a federal special revenue account consisting of all funds received from federal entities for the department of labor and industry to use in carrying out the purposes of [sections 1 through 7].

(3) The department shall explore all relevant funding opportunities, including coordination and use of existing resources under Title 39, chapter 11, Title 53, chapter 2, and Title 90, and apply for funding from federal and other public sources as well as private grants or other private resources for the purposes of [sections 1 through 7].

Section 8. Transfer and appropriation. (1) By August 15, 2019, the state treasurer shall transfer \$45,000 from the general fund to the state special revenue account established in [section 7].

(2) There is appropriated \$45,000 for the biennium ending June 30, 2021, from the state special revenue account established in [section 7] for the use by the department of labor and industry for providing grants under [sections 1 through 7].

Section 9. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 10. Codification instruction. [Sections 1 through 7] are intended to be codified as an integral part of Title 39, and the provisions of Title 39 apply to [sections 1 through 7].

Section 11. Effective date. [This act] is effective July 1, 2019.

Section 12. Termination. [This act] terminates June 30, 2021.

Approved May 7, 2019

CHAPTER NO. 367

[HB 640]

AN ACT GENERALLY REVISING LAWS RELATED TO CHILDHOOD SEXUAL ABUSE; REVISING THE STATUTE OF LIMITATIONS FOR CIVIL LIABILITY FOR CHILDHOOD SEXUAL ABUSE; REVISING THE TYPES OF CRIMES THAT CAN BE CONSIDERED CHILDHOOD SEXUAL ABUSE FOR THE PURPOSES OF CIVIL LIABILITY; REVISING THE DEFINITIONS OF SEXUAL ABUSE AND SEXUAL EXPLOITATION FOR THE PURPOSES OF CHILD ABUSE AND NEGLECT PROCEEDINGS; REVISING LAWS RELATED TO REPORTING OF SUSPECTED CHILD SEXUAL ABUSE OR SEXUAL EXPLOITATION; INCLUDING DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES EMPLOYEES AS MANDATORY REPORTERS OF CHILD ABUSE AND NEGLECT; REQUIRING COUNTY ATTORNEYS AND THE ATTORNEY GENERAL TO PROVIDE CERTAIN REPORTS; REVISING LAWS RELATED TO RETENTION AND DISCLOSURE OF CONFIDENTIAL RECORDS; PROVIDING A FELONY PENALTY FOR FAILURE TO REPORT CHILD SEXUAL ABUSE OR SEXUAL EXPLOITATION; REVISING THE CRIMINAL STATUTE OF LIMITATIONS FOR SEX OFFENSES INVOLVING VICTIMS WHO WERE CHILDREN AT THE TIME OF THE OFFENSE; AMENDING SECTIONS 27-2-204, 27-2-216, 41-3-102, 41-3-201, 41-3-202, 41-3-205, 41-3-207, AND 45-1-205, MCA; REPEALING SECTION 27-2-217, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES.

WHEREAS, childhood sexual abuse is an epidemic in Montana, and there are many instances in recent years of victims of childhood sexual abuse being unable to seek criminal or civil justice as the result of short statute of limitations windows in Montana law; and

WHEREAS, the sexual abuse of children is despicable conduct that must be reported, investigated, and prosecuted to create specific deterrence; and

WHEREAS, the State of Montana must ensure appropriate action when mandatory reporters and others report childhood sexual abuse; and

WHEREAS, regardless of the location of the crime, to protect Montana's children, the Department of Public Health and Human Services and the Department of Justice, working closely with local law enforcement and prosecutors, must respond to allegations of sexual abuse with effective investigations and, when viable, effective prosecutions; and

WHEREAS, childhood sexual abuse causes lifelong trauma to survivors of the same; and

WHEREAS, the average reporting age of victims of childhood sexual abuse is 52 years old, requiring the Legislature to take a meaningful look into the time periods presently allowed in Montana law to pursue criminal and civil court action; and

WHEREAS, upon review, the Legislature has determined that the current truncated time periods to bring criminal prosecutions and civil litigation related to allegations of sexual abuse are not in line with mental health science as to reporting of childhood sexual abuse, are too narrow, and should be extended.

Be it enacted by the Legislature of the State of Montana:

Section 1. County attorney duties – certification – retention of records – reports to attorney general and legislature. (1) (a) The county attorney shall gather all case notes, correspondence, evaluations, interviews, and other investigative materials pertaining to each report from the department or investigation by law enforcement of sexual abuse or sexual exploitation of a child made within the county. After a report is made or an investigation is commenced, the following individuals or entities shall provide to the county attorney all case notes, correspondence, evaluations, interviews, and other investigative materials related to the report or investigation:

(i) the department;

(ii) state and local law enforcement; and

(iii) all members of a county interdisciplinary child information and school safety team established under 52-2-211.

(b) The duty to provide records to the county attorney under subsection (1)(a) remains throughout the course of an investigation, an abuse and neglect proceeding conducted pursuant to this part, or the prosecution of a case involving the sexual abuse of a child or sexual exploitation of a child.

(c) Upon receipt of a report from the department, as required in 41-3-202, that includes an allegation of sexual abuse of a child or sexual exploitation of a child, the county attorney shall certify in writing to the person who initially reported the information that the county attorney received the report. The certification must include the date the report was received and the age and gender of the alleged victim. If the report was anonymous, the county attorney shall provide the certification to the department. If the report was made to the county attorney by a law enforcement officer, the county attorney is not required to provide the certification.

(2) The county attorney shall retain records relating to the report or investigation, including the certification, case notes, correspondence, evaluations, videotapes, and interviews, for 25 years.

(3) Each county attorney shall report every 6 months to the attorney general. The report to the attorney general must include, for each report from the department or investigation by law enforcement:

(a) a unique case identifier;

(b) the date that the initial report or allegation was received by the county attorney;

(c) the date of any decision to prosecute based on a report or investigation;

(d) the date of any decision to decline to prosecute based on a report or investigation; and

(e) if charges are filed against a defendant, any known outcomes of the case.

(4) The attorney general shall report to the law and justice interim committee each year by September 1 and as provided in 5-11-210. The reports must provide aggregated information regarding the status of the cases reported by the county attorneys, including data on the total number of cases reported, the number of cases declined for prosecution, and the number of cases charged.

Section 2. Section 27-2-204, MCA, is amended to read:

“27-2-204. Tort actions – general and personal injury. (1) Except as provided in 27-2-216 and 27-2-217, the period prescribed for the commencement of an action upon a liability not founded upon an instrument in writing is within 3 years.

(2) The period prescribed for the commencement of an action to recover damages for the death of one caused by the wrongful act or neglect of another is within 3 years, except when the wrongful death is the result of a homicide, in which case the period is within 10 years.

(3) The period prescribed for the commencement of an action for libel, slander, assault, battery, false imprisonment, or seduction is within 2 years.”

Section 3. Section 27-2-216, MCA, is amended to read:

“27-2-216. Tort actions – childhood sexual abuse. (1) *Except as provided in subsection (4), an action based on intentional conduct brought by a person for recovery of damages for injury suffered as a result of childhood sexual abuse against the individual who committed the acts must be commenced not later than:*

(a) *3 years after before the victim of the act of childhood sexual abuse that is alleged to have caused the injury reaches 27 years of age; or*

(b) *not later than 3 years after the plaintiff discovers or reasonably should have discovered that the injury was caused by the act of childhood sexual abuse.*

~~(2) It is not necessary for a plaintiff to establish which act, in a series of acts of childhood sexual abuse, caused the injury that is the subject of the suit. The plaintiff may compute the period referred to in subsection (1)(a) from the date of the last act by the same perpetrator.~~

~~(3)(2) As used in this section, “childhood sexual abuse” means any act committed against a plaintiff who was less than 18 years of age at the time the act occurred and that would have been a violation of 45-5-502, 45-5-503, 45-5-504, 45-5-507, 45-5-508, 45-5-602, 45-5-603, 45-5-625, 45-5-627, 45-5-704, 45-5-705, or prior similar laws in effect at the time the act occurred.~~

~~(3) Except as provided in subsection (5), in an action for recovery of damages for liability against any entity that owed a duty of care to the plaintiff, where a wrongful or negligent act by an employee, officer, director, official, volunteer, representative, or agent of the entity was a legal cause of the childhood sexual abuse that resulted in the injury to the plaintiff, the action must be commenced:~~

~~(a) before the victim of the act of childhood sexual abuse that is alleged to have caused the injury reaches 27 years of age; or~~

~~(b) not later than 3 years after the plaintiff discovers or reasonably should have discovered that the injury was caused by the act of childhood sexual abuse.~~

~~(4) A claim for damages described in subsection (1) that would otherwise be barred because the applicable statute of limitations has expired may be commenced within 1 year of [the effective date of this act] if the individual who committed the act of childhood sexual abuse against the plaintiff is alive at the time the action proceeds or is commenced and:~~

(a) *has admitted to the commission of the act of childhood sexual abuse against the plaintiff in either a written and signed statement or a statement recorded by audio or video; or*

(b) *(i) has made one or more statements admitting to the commission of the act of childhood sexual abuse against the plaintiff under oath or in a plea agreement; or*

(ii) has been convicted of an offense listed in subsection (2) in which the plaintiff was the victim.

(5) (a) *A claim for damages described in subsection (3) that would otherwise be barred because the applicable statute of limitations has expired must be revived if the court concludes that the entity against whom the action is commenced, based upon documents or admissions by employees, officers, directors, officials, volunteers, representatives, or agents of the entity, knew, had reason to know, or was otherwise on notice of any unlawful sexual conduct by an employee, officer, director, official, volunteer, representative, or agent and failed to take reasonable steps to prevent future acts of unlawful sexual conduct.*

(b) A cause of action in which allegations described in subsection (5)(a) are made but that would otherwise be barred by the statute of limitations in subsection (3) may be commenced within 1 year of [the effective date of this act].

(6) *As used in subsection (5), "admissions" include:*

(a) a criminal conviction of an employee, officer, director, official, volunteer, representative, or agent of the entity for an offense of childhood sexual abuse;

(b) a written statement;

(c) a documented or recorded oral statement; or

(d) statements made in:

(i) a plea agreement or change of plea hearing;

(ii) a trial; or

(iii) a settlement agreement.

~~(4)~~(7) *The provisions of 27-2-401 apply to this section."*

Section 4. Section 41-3-102, MCA, is amended to read:

"41-3-102. Definitions. As used in this chapter, the following definitions apply:

(1) (a) "Abandon", "abandoned", and "abandonment" mean:

(i) leaving a child under circumstances that make reasonable the belief that the parent does not intend to resume care of the child in the future;

(ii) willfully surrendering physical custody for a period of 6 months and during that period not manifesting to the child and the person having physical custody of the child a firm intention to resume physical custody or to make permanent legal arrangements for the care of the child;

(iii) that the parent is unknown and has been unknown for a period of 90 days and that reasonable efforts to identify and locate the parent have failed; or

(iv) the voluntary surrender, as defined in 40-6-402, by a parent of a newborn who is no more than 30 days old to an emergency services provider, as defined in 40-6-402.

(b) The terms do not include the voluntary surrender of a child to the department solely because of parental inability to access publicly funded services.

(2) "A person responsible for a child's welfare" means:

(a) the child's parent, guardian, or foster parent or an adult who resides in the same home in which the child resides;

(b) a person providing care in a day-care facility;

(c) an employee of a public or private residential institution, facility, home, or agency; or

(d) any other person responsible for the child's welfare in a residential setting.

(3) "Abused or neglected" means the state or condition of a child who has suffered child abuse or neglect.

(4) (a) "Adequate health care" means any medical care or nonmedical remedial health care recognized by an insurer licensed to provide disability insurance under Title 33, including the prevention of the withholding of medically indicated treatment or medically indicated psychological care permitted or authorized under state law.

(b) This chapter may not be construed to require or justify a finding of child abuse or neglect for the sole reason that a parent or legal guardian, because of religious beliefs, does not provide adequate health care for a child. However, this chapter may not be construed to limit the administrative or judicial authority of the state to ensure that medical care is provided to the child when there is imminent substantial risk of serious harm to the child.

(5) "Best interests of the child" means the physical, mental, and psychological conditions and needs of the child and any other factor considered by the court to be relevant to the child.

(6) "Child" or "youth" means any person under 18 years of age.

(7) (a) "Child abuse or neglect" means:

(i) actual physical or psychological harm to a child;

(ii) substantial risk of physical or psychological harm to a child; or

(iii) abandonment.

(b) (i) The term includes:

(A) actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child's welfare; or

(B) exposing a child to the criminal distribution of dangerous drugs, as prohibited by 45-9-101, the criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110, or the operation of an unlawful clandestine laboratory, as prohibited by 45-9-132.

(ii) For the purposes of this subsection (7), "dangerous drugs" means the compounds and substances described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2.

(c) In proceedings under this chapter in which the federal Indian Child Welfare Act is applicable, this term has the same meaning as "serious emotional or physical damage to the child" as used in 25 U.S.C. 1912(f).

(d) The term does not include self-defense, defense of others, or action taken to prevent the child from self-harm that does not constitute physical or psychological harm to a child.

(8) "Concurrent planning" means to work toward reunification of the child with the family while at the same time developing and implementing an alternative permanent plan.

(9) "Department" means the department of public health and human services provided for in 2-15-2201.

(10) "Family group decisionmaking meeting" means a meeting that involves family members in either developing treatment plans or making placement decisions, or both.

(11) "Indian child" means any unmarried person who is under 18 years of age and who is either:

(a) a member of an Indian tribe; or

(b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

(12) “Indian child’s tribe” means:

(a) the Indian tribe in which an Indian child is a member or eligible for membership; or

(b) in the case of an Indian child who is a member of or eligible for membership in more than one Indian tribe, the Indian tribe with which the Indian child has the more significant contacts.

(13) “Indian custodian” means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control have been transferred by the child’s parent.

(14) “Indian tribe” means any Indian tribe, band, nation, or other organized group or community of Indians recognized by:

(a) the state of Montana; or

(b) the United States secretary of the interior as being eligible for the services provided to Indians or because of the group’s status as Indians, including any Alaskan native village as defined in federal law.

(15) “Limited emancipation” means a status conferred on a youth by a court in accordance with 41-1-503 under which the youth is entitled to exercise some but not all of the rights and responsibilities of a person who is 18 years of age or older.

(16) “Parent” means a biological or adoptive parent or stepparent.

(17) “Parent-child legal relationship” means the legal relationship that exists between a child and the child’s birth or adoptive parents, as provided in Title 40, chapter 6, part 2, unless the relationship has been terminated by competent judicial decree as provided in 40-6-234, Title 42, or part 6 of this chapter.

(18) “Permanent placement” means reunification of the child with the child’s parent, adoption, placement with a legal guardian, placement with a fit and willing relative, or placement in another planned permanent living arrangement until the child reaches 18 years of age.

(19) “Physical abuse” means an intentional act, an intentional omission, or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death.

(20) “Physical neglect” means either failure to provide basic necessities, including but not limited to appropriate and adequate nutrition, protective shelter from the elements, and appropriate clothing related to weather conditions, or failure to provide cleanliness and general supervision, or both, or exposing or allowing the child to be exposed to an unreasonable physical or psychological risk to the child.

(21) (a) “Physical or psychological harm to a child” means the harm that occurs whenever the parent or other person responsible for the child’s welfare:

(i) inflicts or allows to be inflicted upon the child physical abuse, physical neglect, or psychological abuse or neglect;

(ii) commits or allows sexual abuse or exploitation of the child;

(iii) induces or attempts to induce a child to give untrue testimony that the child or another child was abused or neglected by a parent or other person responsible for the child’s welfare;

(iv) causes malnutrition or a failure to thrive or otherwise fails to supply the child with adequate food or fails to supply clothing, shelter, education, or adequate health care, though financially able to do so or offered financial or other reasonable means to do so;

(v) exposes or allows the child to be exposed to an unreasonable risk to the child's health or welfare by failing to intervene or eliminate the risk; or

(vi) abandons the child.

(b) The term does not include a youth not receiving supervision solely because of parental inability to control the youth's behavior.

(22) (a) "Protective services" means services provided by the department:

(i) to enable a child alleged to have been abused or neglected to remain safely in the home;

(ii) to enable a child alleged to have been abused or neglected who has been removed from the home to safely return to the home; or

(iii) to achieve permanency for a child adjudicated as a youth in need of care when circumstances and the best interests of the child prevent reunification with parents or a return to the home.

(b) The term includes emergency protective services provided pursuant to 41-3-301, voluntary protective services provided pursuant to 41-3-302, and court-ordered protective services provided pursuant to parts 4 and 6 of this chapter.

(23) (a) "Psychological abuse or neglect" means severe maltreatment through acts or omissions that are injurious to the child's emotional, intellectual, or psychological capacity to function, including the commission of acts of violence against another person residing in the child's home.

(b) The term may not be construed to hold a victim responsible for failing to prevent the crime against the victim.

(24) "Qualified expert witness" as used in cases involving an Indian child in proceedings subject to the federal Indian Child Welfare Act means:

(a) a member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and child-rearing practices;

(b) a lay expert witness who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child-rearing practices within the Indian child's tribe; or

(c) a professional person who has substantial education and experience in providing services to children and families and who possesses significant knowledge of and experience with Indian culture, family structure, and child-rearing practices in general.

(25) "Reasonable cause to suspect" means cause that would lead a reasonable person to believe that child abuse or neglect may have occurred or is occurring, based on all the facts and circumstances known to the person.

(26) "Residential setting" means an out-of-home placement where the child typically resides for longer than 30 days for the purpose of receiving food, shelter, security, guidance, and, if necessary, treatment.

(27) (a) "Sexual abuse" means the commission of sexual assault, sexual intercourse without consent, *aggravated sexual intercourse without consent*, indecent exposure, sexual abuse, ritual abuse of a minor, or incest, as described in Title 45, chapter 5.

(b) Sexual abuse does not include any necessary touching of an infant's or toddler's genital area while attending to the sanitary or health care needs of that infant or toddler by a parent or other person responsible for the child's welfare.

(28) "Sexual exploitation" means:

(a) allowing, permitting, or encouraging a child to engage in a prostitution offense, as described in 45-5-601 through 45-5-603; ~~or~~;

(b) allowing, permitting, or encouraging sexual abuse of children as described in 45-5-625; or

(c) *allowing, permitting, or encouraging sexual servitude as described in 45-5-704 or 45-5-705.*

(29) (a) "Social worker" means an employee of the department who, before the employee's field assignment, has been educated or trained in a program of social work or a related field that includes cognitive and family systems treatment or who has equivalent verified experience or verified training in the investigation of child abuse, neglect, and endangerment.

(b) This definition does not apply to any provision of this code that is not in this chapter.

(30) "Treatment plan" means a written agreement between the department and the parent or guardian or a court order that includes action that must be taken to resolve the condition or conduct of the parent or guardian that resulted in the need for protective services for the child. The treatment plan may involve court services, the department, and other parties, if necessary, for protective services.

(31) "Unfounded" means that after an investigation, the investigating person has determined that the reported abuse, neglect, or exploitation has not occurred.

(32) "Unsubstantiated" means that after an investigation, the investigator was unable to determine by a preponderance of the evidence that the reported abuse, neglect, or exploitation has occurred.

(33) (a) "Withholding of medically indicated treatment" means the failure to respond to an infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication, that, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting the conditions.

(b) The term does not include the failure to provide treatment, other than appropriate nutrition, hydration, or medication, to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of treatment would:

(A) merely prolong dying;

(B) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

(C) otherwise be futile in terms of the survival of the infant; or

(iii) the provision of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane. For purposes of this subsection (33), "infant" means an infant less than 1 year of age or an infant 1 year of age or older who has been continuously hospitalized since birth, who was born extremely prematurely, or who has a long-term disability. The reference to less than 1 year of age may not be construed to imply that treatment should be changed or discontinued when an infant reaches 1 year of age or to affect or limit any existing protections available under state laws regarding medical neglect of children 1 year of age or older.

(34) "Youth in need of care" means a youth who has been adjudicated or determined, after a hearing, to be or to have been abused, neglected, or abandoned."

Section 5. Section 41-3-201, MCA, is amended to read:

"41-3-201. Reports. (1) When the professionals and officials listed in subsection (2) know or have reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that a child

is abused or neglected by anyone regardless of whether the person suspected of causing the abuse or neglect is a parent or other person responsible for the child's welfare, they shall report the matter promptly to the department of public health and human services.

(2) Professionals and officials required to report are:

(a) a physician, resident, intern, or member of a hospital's staff engaged in the admission, examination, care, or treatment of persons;

(b) a nurse, osteopath, chiropractor, podiatrist, medical examiner, coroner, dentist, optometrist, or any other health or mental health professional;

(c) religious healers;

(d) school teachers, other school officials, and employees who work during regular school hours;

(e) a social worker, operator or employee of any registered or licensed day-care or substitute care facility, staff of a resource and referral grant program organized under 52-2-711 or of a child and adult food care program, or an operator or employee of a child-care facility;

(f) a foster care, residential, or institutional worker;

(g) a peace officer or other law enforcement official;

(h) a member of the clergy, as defined in 15-6-201(2)(b);

(i) a guardian ad litem or a court-appointed advocate who is authorized to investigate a report of alleged abuse or neglect; or

(j) an employee of an entity that contracts with the department to provide direct services to children; *and*

(k) an employee of the department while in conduct of the employee's duties.

(3) A professional listed in subsection (2)(a) or (2)(b) involved in the delivery or care of an infant shall report to the department any infant known to the professional to be affected by a dangerous drug, as defined in 50-32-101.

(4) Any person may make a report under this section if the person knows or has reasonable cause to suspect that a child is abused or neglected.

(5) (a) When a professional or official required to report under subsection (2) makes a report, the department may share information with:

(i) that professional or official;

(ii) other individuals with whom the professional or official works in an official capacity if the individuals are part of a team that responds to matters involving the child or the person about whom the report was made and the professional or official has asked that the information be shared with the individuals; or

(iii) the child abuse and neglect review commission established in 2-15-2019.

(b) The department may provide information in accordance with 41-3-202(8) and also share information about the investigation, limited to its outcome and any subsequent action that will be taken on behalf of the child who is the subject of the report.

(c) Individuals who receive information pursuant to this subsection (5) shall maintain the confidentiality of the information as required by 41-3-205.

(6) (a) Except as provided in subsection (6)(b) or (6)(c), a person listed in subsection (2) may not refuse to make a report as required in this section on the grounds of a physician-patient or similar privilege.

(b) A member of the clergy or a priest is not required to make a report under this section if:

(i) the knowledge or suspicion of the abuse or neglect came from a statement or confession made to the member of the clergy or the priest in that person's capacity as a member of the clergy or as a priest;

(ii) the statement was intended to be a part of a confidential communication between the member of the clergy or the priest and a member of the church or congregation; and

(iii) the person who made the statement or confession does not consent to the disclosure by the member of the clergy or the priest.

(c) A member of the clergy or a priest is not required to make a report under this section if the communication is required to be confidential by canon law, church doctrine, or established church practice.

(7) The reports referred to under this section must contain:

(a) the names and addresses of the child and the child's parents or other persons responsible for the child's care;

(b) to the extent known, the child's age and the nature and extent of the child's injuries, including any evidence of previous injuries;

(c) any other information that the maker of the report believes might be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of the person or persons responsible for the injury or neglect; and

(d) the facts that led the person reporting to believe that the child has suffered injury or injuries or willful neglect, within the meaning of this chapter. (Subsection (5)(a)(iii) terminates September 30, 2021--sec. 12, Ch. 235, L. 2017.)"

Section 6. Section 41-3-202, MCA, is amended to read:

"41-3-202. Action on reporting. (1) (a) Upon receipt of a report that a child is or has been abused or neglected, the department shall promptly assess the information contained in the report and make a determination regarding the level of response required and the timeframe within which action must be initiated.

(b) (i) *Except as provided in subsection (1)(b)(ii), upon receipt of a report that includes an allegation of sexual abuse or sexual exploitation or if the department determines during any investigation that the circumstances surrounding an allegation of child abuse or neglect include an allegation of sexual abuse or sexual exploitation, the department shall immediately report the allegation to the county attorney of the county in which the acts that are the subject of the report occurred.*

(ii) *If a victim of sexual abuse or sexual exploitation has attained the age of 14 and has sought services from a contractor as described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault, conditioned upon an understanding that the criminal conduct will not be reported by the department to the county attorney in the jurisdiction in which the alleged crime occurred, the department may not report pursuant to 41-3-205(5)(d) and subsection (1)(b)(i) of this section.*

(c) If the department determines that an investigation is required, a social worker, the county attorney, or a peace officer shall promptly conduct a thorough investigation into the circumstances surrounding the allegations of abuse or neglect of the child. The investigation may include an investigation at the home of the child involved, the child's school or day-care facility, or any other place where the child is present and into all other nonfinancial matters that in the discretion of the investigator are relevant to the investigation. In conducting an investigation under this section, a social worker may not inquire into the financial status of the child's family or of any other person responsible for the child's care, except as necessary to ascertain eligibility for state or federal assistance programs or to comply with the provisions of 41-3-446.

(2) An initial investigation of alleged abuse or neglect may be conducted when an anonymous report is received. However, the investigation must

within 48 hours result in the development of independent, corroborative, and attributable information in order for the investigation to continue. Without the development of independent, corroborative, and attributable information, a child may not be removed from the home.

(3) The social worker is responsible for assessing the family and planning for the child. If the child is treated at a medical facility, the social worker, county attorney, or peace officer, consistent with reasonable medical practice, has the right of access to the child for interviews, photographs, and securing physical evidence and has the right of access to relevant hospital and medical records pertaining to the child. If an interview of the child is considered necessary, the social worker, county attorney, or peace officer may conduct an interview of the child. The interview may be conducted in the presence of the parent or guardian or an employee of the school or day-care facility attended by the child.

(4) Subject to 41-3-205(3), if the child's interview is audiotaped or videotaped, an unedited audiotape or videotape with audio track must be made available, upon request, for unencumbered review by the family.

(5) (a) If from the investigation the department has reasonable cause to suspect that the child suffered abuse or neglect, the department may provide emergency protective services to the child, pursuant to 41-3-301, or voluntary protective services pursuant to 41-3-302, and may provide protective services to any other child under the same care. The department shall:

(i) after interviewing the parent or guardian, if reasonably available, document its determination regarding abuse or neglect of a child; and

(ii) notify the child's family of its investigation and determination, unless the notification can reasonably be expected to result in harm to the child or other person.

(b) If from the investigation it is determined that the child has not suffered abuse or neglect and the initial report is determined to be unfounded, the department, ~~and the social worker, county attorney,~~ or peace officer who conducted the investigation into the circumstances surrounding the allegations of abuse or neglect shall destroy all of their records concerning the report and the investigation. The destruction must be completed within 30 days of the determination that the child has not suffered abuse or neglect.

(c) (i) If the report is unsubstantiated, the department and the social worker who conducted the investigation into the circumstances surrounding the initial allegations of abuse or neglect shall destroy all of the records, except for medical records, concerning the unsubstantiated report and the investigation within 30 days after the end of the 3-year period starting from the date the report was determined to be unsubstantiated, unless:

(A) there had been a previous or there is a subsequent substantiated report concerning the same person; or

(B) an order has been issued under this chapter based on the circumstances surrounding the initial allegations.

(ii) A person who is the subject of an unsubstantiated report that was made prior to October 1, 2003, and after which a period of 3 years has elapsed without there being submitted a subsequent substantiated report or an order issued under this chapter based on the circumstances surrounding the initial allegations may request that the department destroy all of the records concerning the unsubstantiated report as provided in subsection (5)(c)(i).

(6) The investigating social worker, within 60 days of commencing an investigation, shall also furnish a written report to the department and, upon request, to the family. Subject to subsections (5)(b) and (5)(c), the department shall maintain a record system documenting investigations and determinations

of child abuse and neglect cases. *Unless records are required to be destroyed under subsections (5)(b) and (5)(c), the department shall retain records relating to the report, including case notes, correspondence, evaluations, videotapes, and interviews, for 25 years.*

(7) Any person reporting abuse or neglect that involves acts or omissions on the part of a public or private residential institution, home, facility, or agency is responsible for ensuring that the report is made to the department.

(8) The department shall, upon request from any reporter of alleged child abuse or neglect, verify whether the report has been received, describe the level of response and timeframe for action that the department has assigned to the report, and confirm that it is being acted upon.”

Section 7. Section 41-3-205, MCA, is amended to read:

“41-3-205. Confidentiality – disclosure exceptions. (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined to be detrimental to the child or harmful to another person who is a subject of information contained in the records, may be disclosed to the following persons or entities in this state and any other state or country:

(a) a department, agency, or organization, including a federal agency, military enclave, or Indian tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and that otherwise meets the disclosure criteria contained in this section;

(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records or to a person authorized by the department to receive relevant information for the purpose of determining the best interests of a child with respect to an adoptive placement;

(c) a health or mental health professional who is treating the family or child who is the subject of a report in the records;

(d) a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child’s welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

(e) a child named in the records who was allegedly abused or neglected or the child’s legal guardian or legal representative, including the child’s guardian ad litem or attorney or a special advocate appointed by the court to represent a child in a pending case;

(f) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

(g) approved foster and adoptive parents who are or may be providing care for a child;

(h) a person about whom a report has been made and that person's attorney, with respect to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any other person whose safety may be endangered;

(i) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of child abuse or neglect;

(j) a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

(k) the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family group decisionmaking meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

(l) the coroner or medical examiner when determining the cause of death of a child;

(m) a child fatality review team recognized by the department[, including the child abuse and neglect review commission established in 2-15-2019];

(n) a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

(o) a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection (3)(o) must be made in writing. Disclosure under this subsection (3)(o) is limited to information that indicates a risk to children, persons with developmental disabilities, or older persons posed by the person about whom the information is sought, as determined by the department.

(p) the news media, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

(q) an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

(r) an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

(s) a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

(t) an attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

(u) a foster care review committee established under 41-3-115 or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;

(v) a school employee participating in an interview of a child by a social worker, county attorney, or peace officer, as provided in 41-3-202;

(w) a member of a county interdisciplinary child information and school safety team formed under the provisions of 52-2-211;

(x) members of a local interagency staffing group provided for in 52-2-203;

(y) a member of a youth placement committee formed under the provisions of 41-5-121; or

(z) a principal of a school or other employee of the school district authorized by the trustees of the district to receive the information with respect to a student of the district who is a client of the department.

(4) (a) The records described in subsection (3) must be disclosed to a member of the United States congress or a member of the Montana legislature if all of the following requirements are met:

(i) the member receives a written inquiry regarding a child and whether the laws of the United States or the state of Montana that protect children from abuse or neglect are being complied with or whether the laws need to be changed to enhance protections for children;

(ii) the member submits a written request to the department requesting to review the records relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the child whose records are to be reviewed, and any other information that will assist the department in locating the records.

(iii) before reviewing the records, the member:

(A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties for unauthorized release of the information; and

(B) receives from the department an orientation of the content and structure of the records.

(b) Records disclosed pursuant to subsection (4)(a) are confidential, must be made available for the member to view at a location determined by the department but may not be copied, recorded, photographed, or otherwise replicated by the member, and must remain solely in the department's possession.

(c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date the written request to review records was received by the department.

(5) (a) The records described in subsection (3) must be promptly released to any of the following individuals upon a written request by the individual to the department or the department's designee:

(i) the attorney general;

(ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect occurred;

(iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect occurred; or

(iv) the office of the child and family ombudsman.

(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (5)(a) or to a county interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:

(i) the death of the child as a result of child abuse or neglect;

(ii) a sexual offense, as defined in 46-23-502, against the child;

(iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502; or

(iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances constituting the criminal manufacture or distribution of dangerous drugs.

(c) (i) The department shall promptly disclose the results of an investigation to an individual described in subsection (5)(a) or to a county interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the determination that:

(A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or

(B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession of a Schedule I or Schedule II drug that is prohibited by state law.

(ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have contact with drug paraphernalia as defined in 45-10-101.

(d) (i) Except as provided in subsection (5)(d)(ii), the records described in subsection (3) must be released within 5 business days to the county attorney of the county in which the acts that are the subject of a report occurred upon the department's receipt of a report that includes an allegation of sexual abuse or sexual exploitation. The department shall also report to any other appropriate individual described in subsection (5)(a) and to a county interdisciplinary child information and school safety team established pursuant to 52-2-211.

(ii) If the exception in 41-3-202(1)(b) applies, a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault shall report to the department as provided in this part without disclosing the names of the victim and the alleged perpetrator of sexual abuse or sexual exploitation.

(iii) When a contractor described in 41-3-201(2)(j) that provides confidential services to victims of sexual assault provides services to youth over the age of 13 who are victims of sexual abuse and sexual exploitation, the contractor may not dissuade or obstruct a victim from reporting the criminal activity and, upon a request by the victim, shall facilitate disclosure to the county attorney and a law enforcement officer as described in Title 7, chapter 32, in the jurisdiction where the alleged abuse occurred.

(6) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.

(7) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(8) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(9) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsections (3)(a) and (5). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(10) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (9) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(11) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or guardian's attorney must be provided without cost. (Bracketed language in subsection (3)(m) terminates September 30, 2021--sec. 12, Ch. 235, L. 2017.)"

Section 8. Section 41-3-207, MCA, is amended to read:

"41-3-207. Penalty for failure to report. (1) Any person, official, or institution required by law 41-3-201 to report known or suspected child abuse or neglect who fails to do so or who prevents another person from reasonably doing so is civilly liable for the damages proximately caused by ~~such failure or prevention~~ *the act or omission*.

(2) ~~Any~~ *Except as provided in subsection (3), any* person or official required by law 41-3-201 to report known or suspected child abuse or neglect who purposely or knowingly fails to report known child abuse or neglect or purposely or knowingly prevents another person from ~~doing so~~ *making a report* is guilty of a misdemeanor.

(3) *Any person or official required by 41-3-201 to report known or suspected sexual abuse or sexual exploitation who purposely or knowingly fails to report known sexual abuse or sexual exploitation of a child or purposely or knowingly prevents another person from making a report is guilty of a felony and shall be imprisoned in the state prison for a term not to exceed 5 years or fined an amount not to exceed \$10,000, or both."*

Section 9. Section 45-1-205, MCA, is amended to read:

"45-1-205. General time limitations. (1) (a) A prosecution for deliberate, mitigated, or negligent homicide may be commenced at any time.

(b) Except as provided in subsection (1)(c) or (9), a prosecution for a felony offense under 45-5-502, 45-5-503, 45-5-504, ~~45-5-507(4) or (5) 45-5-507(4) or (5), 45-5-625, or or 45-5-627~~ may be commenced within 10 years after it is committed; ~~except that it may be commenced within 20 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred. A prosecution for a misdemeanor offense under those provisions may be commenced within 1 year after the offense is committed, except that it may be commenced within 5 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred.~~

~~(c) Except as provided in subsection (9), a prosecution under 45-5-507(1), (2), (3), or (6) may be commenced within 5 years after the victim reaches 18 years of age if the victim was less than 18 years of age at the time that the offense occurred.~~

(c) A prosecution for an offense under 45-5-502, 45-5-503, 45-5-504, 45-5-507, 45-5-508, 45-5-602, 45-5-603, 45-5-625, 45-5-627, 45-5-704, or 45-5-705 may be commenced at any time if the victim was less than 18 years of age at the time that the offense occurred.

(2) Except as provided in subsection (7)(b) or as otherwise provided by law, prosecutions for other offenses are subject to the following periods of limitation:

(a) A prosecution for a felony must be commenced within 5 years after it is committed.

(b) A prosecution for a misdemeanor must be commenced within 1 year after it is committed.

(3) The periods prescribed in subsection (2) are extended in a prosecution for theft involving a breach of fiduciary obligation to an aggrieved person as follows:

(a) if the aggrieved person is a minor or incompetent, during the minority or incompetency or within 1 year after the termination of the minority or incompetency;

(b) in any other instance, within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(4) The period prescribed in subsection (2) must be extended in a prosecution for unlawful use of a computer, and prosecution must be brought within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(5) The period prescribed in subsection (2) is extended in a prosecution for misdemeanor fish and wildlife violations under Title 87, and prosecution must be brought within 3 years after an offense is committed.

(6) The period prescribed in subsection (2)(b) is extended in a prosecution for misdemeanor violations of the laws regulating the activities of outfitters and guides under Title 37, chapter 47, and prosecution must be brought within 3 years after an offense is committed.

(7) (a) An offense is committed either when every element occurs or, when the offense is based upon a continuing course of conduct, at the time when the course of conduct is terminated. Time starts to run on the day after the offense is committed.

(b) A prosecution for theft under 45-6-301 may be commenced at any time during the 5 years following the date of the theft, whether or not the offender is in possession of or otherwise exerting unauthorized control over the property at the time the prosecution is commenced. After the 5-year period ends, a prosecution may be commenced at any time if the offender is still in possession of or otherwise exerting unauthorized control over the property, except that the prosecution must be commenced within 1 year after the investigating officer discovers that the offender still possesses or is otherwise exerting unauthorized control over the property.

(8) A prosecution is commenced either when an indictment is found or an information or complaint is filed.

(9) If a suspect is conclusively identified by DNA testing after a time period prescribed in subsection (1)(b) ~~or (1)(c)~~ has expired, a prosecution may be commenced within 1 year after the suspect is conclusively identified by DNA testing.

(10) A prosecution for reckless driving resulting in death may be commenced within 3 years after the offense is committed.

(11) A prosecution of careless driving resulting in death may be commenced within 3 years after the offense is committed."

Section 10. Repealer. The following section of the Montana Code Annotated is repealed:

27-2-217. Tort actions -- ritual abuse of minor.

Section 11. Transition -- reports to attorney general and legislature. It is the intent of the legislature that the county attorneys begin collecting data beginning July 1, 2019, and provide the first 6-month report to the attorney general in January 2020 for the period of July 2019 through December 2019.

Section 12. Authorization to amend filed complaint. Notwithstanding any existing court order, a plaintiff in a pending case filed under 27-2-216 is

authorized to amend the filed complaint based upon the authority in 27-2-216(4) or (5) during the 1-year period authorized in 27-2-216(4) or (5).

Section 13. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 41, chapter 3, part 2, and the provisions of Title 41, chapter 3, part 2, apply to [section 1].

Section 14. Coordination instruction. If both House Bill No. 502 and [this act] are passed and approved, then the references in [this act] to “report” in [section 6(6)] must be changed to “safety and risk assessment”.

Section 15. Saving clause. The repeal of 27-2-217 in [this act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 16. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 17. Effective date. [This act] is effective on passage and approval.

Section 18. Retroactive applicability. (1) Except as provided in subsection (2), [section 3] applies to all causes of action now pending or commenced on or after [the effective date of this act], regardless of when the cause of action arose, as well as to previously filed actions that have been dismissed on the basis of an expired statute of limitations. To this extent, [section 3] applies retroactively, within the meaning of 1-2-109.

(2) [Section 3] does not apply to:

(a) any claim that has been litigated to finality on the merits in any court of competent jurisdiction prior to [the effective date of this act]; or

(b) any settlement agreement reached prior to [the effective date of this act] for all claims alleging childhood sexual abuse.

Section 19. Applicability. (1) [Section 8(3)] applies to offenses committed on or after [the effective date of this act].

(2) [Section 9] applies:

(a) to offenses committed on or after [the effective date of this act]; and

(b) to offenses committed before [the effective date of this act] and for which the statute of limitations has not expired on [the effective date of this act].

Approved May 7, 2019

CHAPTER NO. 368

[HB 726]

AN ACT EXTENDING THE PERIOD OF CHILD SUPPORT OBLIGATION FOR A CHILD WITH A DISABILITY WHEN THE CUSTODIAL PARENT IS THE CAREGIVER; PROVIDING AN APPROPRIATION; AMENDING SECTION 40-4-208, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 40-4-208, MCA, is amended to read:

“40-4-208. Modification and termination of provisions for maintenance, support, and property disposition. (1) Except as otherwise provided in 40-4-201(6), a decree may be modified by a court as to maintenance or support only as to installments accruing subsequent to actual notice to the parties of the motion for modification.

(2) (a) Except as provided in 40-4-251 through 40-4-258, whenever the decree proposed for modification does not contain provisions relating to

maintenance or support, modification under subsection (1) may only be made within 2 years of the date of the decree.

(b) Except as provided in 40-4-251 through 40-4-258, whenever the decree proposed for modification contains provisions relating to maintenance or support, modification under subsection (1) may only be made:

(i) upon a showing of changed circumstances so substantial and continuing as to make the terms unconscionable;

(ii) upon written consent of the parties; or

(iii) upon application by the department of public health and human services, whenever the department of public health and human services is providing services under Title IV-D of the federal Social Security Act. The support obligation must be modified, as appropriate, in accordance with the guidelines promulgated under 40-5-209. Except as provided in 40-4-251 through 40-4-258, a modification under this subsection may not be made within 12 months after the establishment of the order or the most recent modification.

(c) The nonexistence of a medical support order, as defined in 40-5-804, or a violation of a medical support order justifies an immediate modification of child support in order to:

(i) provide for the actual or anticipated costs of the child's medical care;

(ii) provide or maintain a health benefit plan or individual health insurance coverage for the child; or

(iii) eliminate any credit for a medical support obligation when it has been permitted or used as a credit in the determination of the child support obligation.

(3) The provisions as to property disposition may not be revoked or modified by a court except:

(a) upon written consent of the parties; or

(b) if the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.

(4) Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

(5) *Provisions Except as provided in subsection (6), provisions for the support of a child are terminated by emancipation of the child or the child's graduation from high school if the child is enrolled in high school, whichever occurs later, but in no event later than the child's 19th birthday, unless the termination date is extended or knowingly waived by written agreement or by an express provision of the decree.*

(6) (a) Provisions for the support of a child who has not been emancipated by the court are not terminated solely on the basis of the child's age if the child has a disability that causes the child to be financially dependent on the custodial parent and the custodial parent is the child's primary caregiver.

(b) The obligation to pay child support for the individual with a disability continues until the court finds that the individual is no longer disabled or is no longer financially dependent on the custodial parent if:

(i) the decree ordering provisions for the support of a child is issued on or after [the effective date of this act]; or

(ii) the decree ordering provisions for the support of a child is already in effect on [the effective date of this act] and has not been terminated.

(c) If a decree ordering provisions for the support of a child has been terminated prior to [the effective date of this act] on the basis that the individual with a disability has turned 19 years of age but the individual remains financially dependent on the custodial parent and the custodial parent continues to serve as the individual's primary caregiver, the custodial parent may petition the court

to issue a new child support order or reinstate the terminated child support order until the court finds that the individual is no longer disabled or is no longer financially dependent on the custodial parent.

(d) In assessing the amount of the continuing financial obligation of the noncustodial parent under this subsection (6), the court shall consider the child's eligibility for public benefits and services and other factors enumerated in this section.

(7) Provisions for the support of a child do not terminate upon the death of a parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances.

(6)(8) The decree may be modified, as provided in 40-4-251 through 40-4-258, for failure to disclose assets and liabilities.”

Section 2. Appropriation. There is appropriated \$5,000 from the general fund to the department of public health and human services for the biennium beginning July 1, 2019, for the purpose of hiring staff to implement and enforce [this act], in combination with federal matching grant funds. The appropriation is to be considered as part of the ongoing base for the next legislative session. Any unexpended portion of this appropriation reverts to the general fund.

Section 3. Effective date. [This act] is effective July 1, 2019.

Approved May 7, 2019

CHAPTER NO. 369

[HB 745]

AN ACT CREATING THE MONTANA PUPIL ONLINE PERSONAL INFORMATION PROTECTION ACT; PROTECTING PUPILS FROM MARKETING AIDED BY DISCLOSURE OF THEIR PERSONAL INFORMATION GATHERED IN RELATION TO CERTAIN ONLINE EDUCATIONAL OPPORTUNITIES; PROVIDING CONTRACTUAL REQUIREMENTS FOR SCHOOL DISTRICTS RELATED TO ONLINE MANAGEMENT OF PUPIL RECORDS; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 4] may be cited as the “Montana Pupil Online Personal Information Protection Act”.

Section 2. Definitions. As used in [sections 1 through 4], the following definitions apply:

(1) “Deidentified information” means information that cannot be used to identify an individual pupil.

(2) “K-12 online application” means an internet website, online service, cloud computing service, online application, or mobile application that is used primarily for K-12 school purposes and that was designed and is marketed for K-12 school purposes.

(3) “K-12 school purposes” means activities that customarily take place at the direction of a school, teacher, or school district or aid in the administration of school activities, including but not limited to instruction in the classroom or at home, administrative activities, and collaboration between pupils, school personnel, or parents, or that are for the use and benefit of a school.

(4) “Operator” means the operator of a K-12 online application who knows or reasonably should know that the application is used primarily for K-12 school purposes.

(5) (a) "Protected information" means personally identifiable information or materials, in any media or format, that describes or otherwise identifies a pupil and that is:

(i) created or provided by a pupil, or the pupil's parent or legal guardian, to an operator in the course of the pupil's, parent's, or legal guardian's use of the operator's K-12 online application;

(ii) created or provided by an employee or agent of a school district to an operator in the course of the employee's or agent's use of the operator's K-12 online application; or

(iii) gathered by an operator through the operator's K-12 online application.

(b) The term includes but is not limited to:

(i) information in the pupil's educational record or e-mail messages;

(ii) first and last name, home address, telephone number, e-mail address, or other information that allows physical or online contact;

(iii) discipline records, test results, special education data, juvenile dependency records, grades, or evaluations;

(iv) criminal, medical, or health records;

(v) social security number;

(vi) biometric information;

(vii) disability;

(viii) socioeconomic information;

(ix) food purchases;

(x) political affiliation;

(xi) religious information; or

(xii) text messages, documents, pupil identifiers, search activity, photos, voice recordings, or geolocation information.

(6) (a) "Pupil records" means:

(i) any information directly related to a pupil that is maintained by a school district; or

(ii) any information acquired directly from a pupil through the use of instructional software or applications assigned to the pupil by a teacher or other school district employee.

(b) The term does not include deidentified information, including aggregated deidentified information used:

(i) by a third party to improve educational products for adaptive learning purposes and for customizing pupil learning;

(ii) to demonstrate the effectiveness of a third party's products in the marketing of those products; or

(iii) for the development and improvement of educational sites, services, or applications.

(7) (a) "Pupil-generated content" means materials created by a pupil, including but not limited to essays, research reports, portfolios, creative writing, music or other audio files, photographs, and account information that enables ongoing ownership of pupil content.

(b) The term does not include pupil responses to a standardized assessment for which pupil possession and control would jeopardize the validity and reliability of that assessment.

(8) "Third party" refers to a provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of pupil records.

Section 3. Online protections for pupils. (1) An operator may not knowingly engage in any of the following activities with respect to the operator's K-12 online application:

(a) (i) engage in targeted advertising on the operator's K-12 online application; or

(ii) target advertising on any other site, service, or application when the targeting of the advertising is based on any information, including protected information and persistent unique identifiers, that the operator has acquired because of the use of the operator's K-12 online application;

(b) use information, including persistent unique identifiers, created or gathered by the operator's K-12 online application to amass a profile about a pupil, except in furtherance of K-12 school purposes;

(c) sell a pupil's information, including protected information. This prohibition does not apply to the purchase, merger, or other type of acquisition of an operator by another entity, provided that the operator or successor entity continues to be subject to the provisions of this section with respect to previously acquired pupil information.

(d) disclose protected information unless the disclosure is made:

(i) in furtherance of the K-12 school purposes of the K-12 online application, provided that the recipient of the protected information disclosed pursuant to this subsection (1)(d)(i):

(A) may not further disclose the information unless done to allow or improve operability and functionality within that pupil's classroom or school; and

(B) is legally required to comply with subsection (2);

(ii) to ensure legal and regulatory compliance;

(iii) to respond to or participate in the judicial process;

(iv) to protect the safety of users or others or the security of the site; or

(v) to a service provider, provided the operator contractually:

(A) prohibits the service provider from using any protected information for any purpose other than providing the contracted service to, or on behalf of, the operator;

(B) prohibits the service provider from disclosing any protected information provided by the operator with subsequent third parties; and

(C) requires the service provider to implement and maintain reasonable security procedures and practices as provided in subsection (2).

(2) An operator shall:

(a) implement and maintain reasonable security procedures and practices appropriate to the nature of the protected information and safeguard that information from unauthorized access, destruction, use, modification, or disclosure; and

(b) delete a pupil's protected information if the school or district requests the deletion of data under the control of the school or district.

(3) Notwithstanding subsection (1)(d), an operator may disclose protected information of a pupil, as long as subsections (1)(a) through (1)(c) are not violated, under the following circumstances:

(a) if other provisions of federal or state law require the operator to disclose the information, and the operator complies with the requirements of federal and state law in protecting and disclosing that information;

(b) for legitimate research purposes:

(i) as required by state or federal law and subject to the restrictions under applicable state and federal law; or

(ii) as allowed by state or federal law and under the direction of a school, school district, office of public instruction, or board of public education, if no protected information is used for any purpose to further advertising or to amass a profile on the pupil for purposes other than K-12 school purposes; or

(c) to a state or local educational agency, including schools and school districts, for K-12 school purposes, as permitted by state or federal law.

(4) Nothing in this section prohibits:

(a) the operator's use of information for maintaining, developing, supporting, improving, or diagnosing the operator's site, service, or application;

(b) an operator from using deidentified pupil protected information:

(i) within the operator's K-12 online application or other sites, services, or applications owned by the operator to improve educational products; or

(ii) to demonstrate the effectiveness of the operator's products or services, including in the operator's marketing;

(c) an operator from sharing aggregated deidentified pupil protected information for the development and improvement of educational sites, services, or applications; or

(d) an operator of an internet website, online service, online application, or mobile application from marketing educational products directly to parents, as long as the marketing did not result from the use of protected information obtained by the operator through the provision of services covered under this section.

(5) This section does not limit:

(a) the authority of a law enforcement agency to obtain any content or information from an operator as authorized by law or pursuant to an order of a court of competent jurisdiction;

(b) the ability of an operator to use pupil data, including protected information, for adaptive learning or customized pupil learning purposes;

(c) internet service providers from providing internet connectivity to schools or pupils and their families; or

(d) the ability of pupils to download, export, or otherwise save or maintain their own pupil-created data or documents.

(6) This section does not impose a duty on:

(a) a provider of an electronic store, gateway, marketplace, or other means of purchasing or downloading software or applications to review or enforce compliance of this section on those applications or software; or

(b) a provider of an interactive computer service, as defined in 47 U.S.C. 230, to review or enforce compliance with this section by third-party content providers.

(7) This section does not apply to general audience internet websites, general audience online services, general audience online applications, or general audience mobile applications, even if the login credentials created for an operator's K-12 online application may be used to access those general audience sites, services, or applications.

(8) An operator who violates this section is guilty of a misdemeanor and, if convicted by a court of competent jurisdiction, shall be fined not less than \$200 or more than \$500.

Section 4. Pupil records – online privacy protections. (1) A school district may, pursuant to a policy adopted by its trustees, enter into a contract with a third party to:

(a) provide services, including cloud-based services, for the digital storage, management, and retrieval of pupil records; or

(b) provide digital educational software that authorizes a third-party provider of digital educational software to access, store, and use pupil records in accordance with the contractual provisions listed in subsection (2).

(2) A school district that enters into a contract with a third party for purposes of subsection (1) shall ensure the contract contains all of the following:

(a) a statement that pupil records continue to be the property of and under the control of the school district;

(b) notwithstanding subsection (2)(a), a description of the means by which pupils may retain possession and control of their own pupil-generated content, if applicable, including options by which a pupil may transfer pupil-generated content to a personal account;

(c) a prohibition against the third party for using any information in pupil records for any purpose other than those required or specifically permitted by the contract;

(d) a description of the procedures by which a parent, legal guardian, or eligible pupil may review personally identifiable information in the pupil's records and correct erroneous information;

(e) a description of the actions the third party will take, including the designation and training of responsible individuals, to ensure the security and confidentiality of pupil records. Compliance with this requirement does not, in itself, absolve the third party of liability in the event of an unauthorized disclosure of pupil records.

(f) a description of the procedures for notifying the affected parent, legal guardian, or pupil if 18 years of age or older in the event of an unauthorized disclosure of the pupil's records;

(g) a certification that pupil records will not be retained or available to the third party upon completion of the terms of the contract and a description of how that certification will be enforced. This requirement does not apply to pupil-generated content if a pupil chooses to establish or maintain an account with the third party for the purpose of storing that content pursuant to subsection (2)(b).

(h) a description of how the school district and the third party will jointly ensure compliance with the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g); and

(i) a prohibition against the third party using personally identifiable information in pupil records to engage in targeted advertising.

(3) In addition to any other penalties, a contract that fails to comply with the requirements of this section is void if, upon notice and a reasonable opportunity to cure, the noncompliant party fails to come into compliance and cure any defect. Written notice of noncompliance may be provided by any party to the contract. All parties subject to a contract voided under this subdivision shall return all pupil records in their possession to the school district.

(4) If the provisions of this section are in conflict with the terms of a contract in effect before [the effective date of this act], the provisions of this section do not apply to the school district or the third party subject to that agreement until the expiration, amendment, or renewal of the agreement.

(5) Nothing in this section may be construed to impose liability on a third party for content provided by any other third party.

Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 20, chapter 7, part 13, and the provisions of Title 20, chapter 7, part 13, apply to [sections 1 through 4].

Section 6. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2019

CHAPTER NO. 370

[HB 756]

AN ACT ESTABLISHING THE DOLLY SMITH AKERS MEMORIAL HIGHWAY IN ROOSEVELT COUNTY; DIRECTING THE DEPARTMENT OF TRANSPORTATION TO INSTALL SIGNS AT THE LOCATION AND TO

INCLUDE THE MEMORIAL HIGHWAY ON THE NEXT PUBLICATION OF THE STATE HIGHWAY MAP; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Dolly Smith Akers, also known as Day Eagle Woman, was born on March 23, 1901, in Wolf Point, Montana; and

WHEREAS, Dolly Smith Akers was the daughter of William Henry and Nellie Trexler Smith; and

WHEREAS, Dolly Smith Akers attended school in Wolf Point, Montana, and in Riverside, California; and

WHEREAS, Dolly Smith Akers lived and worked on a ranch north of Poplar; and

WHEREAS, Dolly Smith Akers worked as a welfare worker and state coordinator of Indian reservations in Montana; and

WHEREAS, Dolly Smith Akers entered politics with her election to the Assiniboine-Sioux tribal council at Fort Peck as the first woman elected to the council; and

WHEREAS, Dolly Smith Akers served as chairman of the tribe, was accused of striking the Bureau of Indian Affairs superintendent, was impeached, and was pardoned by President Nixon; and

WHEREAS, Dolly Smith Akers remained active in tribal politics for 40 years and was elected 57 times as a tribal delegate to Washington, D.C.; and

WHEREAS, in addition to tribal politics, Dolly Smith Akers was also active in state politics; and

WHEREAS, Dolly Smith Akers was elected to the state Legislature in 1932 and served in the 1933 Legislative Assembly, where she was the first Indian woman to be elected to the Montana State Legislature; and

WHEREAS, although she was elected as a Democrat, Dolly Smith Akers eventually joined and was active in the Republican Party; and

WHEREAS, Dolly Smith Akers, while in the Legislature, served as chairman of the Federal Relations Committee; and

WHEREAS, Dolly Smith Akers was a special representative of the Governor to the U.S. Secretary of the Interior, was special advisor on Indian Affairs to President Eisenhower, and was the Governor's delegate to the 1960 White House Conference on Children and Youth; and

WHEREAS, Dolly Smith Akers was a member of the Montana State Advisory Committee of the Farmers Home Administration, the National Council of American Indians, where she served as vice-president, and the state Inter-Tribal Policy Board, where she served as secretary; and

WHEREAS, Dolly Smith Akers died on June 5, 1986, in Helena, Montana, leaving behind a trailblazing legacy of public service at the tribal, state, and federal level.

Be it enacted by the Legislature of the State of Montana:

Section 1. Dolly Smith Akers memorial highway. (1) There is established the Dolly Smith Akers memorial highway on existing U.S. highway 2 from Wolf Creek to the Poplar River.

(2) The department shall design and install appropriate signs marking the location of the Dolly Smith Akers memorial highway.

(3) Maps that identify roadways in Montana must be updated to include the location of the Dolly Smith Akers memorial highway.

Section 2. Appropriation. There is appropriated \$1 for the biennium beginning July 1, 2019, from the state general fund to the department of transportation for the purpose of [section 1].

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 60, chapter 1, part 2, and the provisions of Title 60, chapter 1, part 2, apply to [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

Approved May 7, 2019

CHAPTER NO. 371

[HB 757]

AN ACT GENERALLY REVISING WORKERS' COMPENSATION LAWS; REQUIRING CERTIFICATION OF WORKERS' COMPENSATION CLAIMS EXAMINERS; REQUIRING THAT ALL EXAMINERS PAY A CERTIFICATION PROGRAM FEE; PROVIDING RULEMAKING AUTHORITY; REMOVING A TERMINATION DATE REGARDING OPTIONS FOR EXTRATERRITORIAL WORKERS' COMPENSATION COVERAGE; AMENDING SECTION 39-71-320, MCA; REPEALING SECTION 5, CHAPTER 315, LAWS OF 2015; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 39-71-320, MCA, is amended to read:

~~"39-71-320. Voluntary certification~~ Certification program for claims examiners – purpose – rulemaking – advisory committee – continuing education – fee. (1) Pursuant to the public policy stated in 39-71-105, accurate and prompt claims handling practices are necessary to provide appropriate service to injured workers, employers, and health care providers. ~~In order to~~ To further that public policy, the purpose of this section is to authorize the department to establish a ~~voluntary~~ certification program for claims examiners. The department shall administer the ~~voluntary~~ certification program.

(2) The ~~voluntary~~ certification program is intended to improve the handling of workers' compensation claims by:

(a) establishing minimum qualifications and procedures for certifying claims examiners;

(b) requiring continuing education for certified claims examiners;

(c) better educating certified claims examiners about changes in the law; and

(d) providing standards for the qualifications of instructors, courses, and materials.

(3) The department shall adopt rules for the certification of workers' compensation claims examiners, providing for:

(a) minimum qualifications;

(b) examination;

(c) 2-year certification and renewal;

(d) continuing education requirements; and

~~(e) a waiver of the examination requirement for an individual requesting certification as a claims examiner within the first 12 months after the department has adopted the initial rules under this subsection (3). The waiver is available only to an individual who has been actively engaged in the work of a claims examiner in this state, working on workers' compensation claims for 5 of the 7 years immediately preceding the individual's application for certification under this section.~~

(e) a process by which a claims examiner who is newly hired or is in training may perform specified claims functions prior to becoming certified under this section; and

(f) a grace period of 12 months in which to take the examination for all noncertified individuals who were working as a claims examiner as of January 1, 2019.

(4) The department may appoint an advisory committee composed of injured workers, insurers, self-insured employers, third-party administrators, claims examiners, and members of the public to advise the department on setting standards for certification and continuing education.

(5) The department shall maintain:

(a) a list of all certified claims examiners; and

(b) the following records related to certified claims examiners:

(i) documentation of current and historical certifications;

(ii) beginning and ending dates of certifications; and

(iii) continuing education records.

(6) The training curriculum and continuing education used by insurers, self-insured employers, and third-party administrators for claims examiners must relate to the state workers' compensation system or to interactions among injured workers, medical providers, and employers. The training curriculum, course content, instructors, materials, instructional format, and the sponsoring organization must be approved by the department as qualifying for use in certification of claims examiners. The department may offer specialized training for continuing education purposes that is exempt from the approval requirements of this subsection.

(7) The department shall determine the number of credit hours to be awarded for completion of an approved training curriculum or department-approved specialized training. The department may accept continuing education credits approved by the insurance commissioner's office as provided in Title 33, chapter 17, the office of public instruction, or the state bar of Montana to satisfy the continuing education requirements for renewal of the claims examiner certification. The department, in its discretion, may accept continuing education credits from other accrediting sources.

(8) The department shall by rule adopt fees commensurate with the costs of administering the ~~voluntary~~ certification program. All fees collected by the department as provided in this section must be deposited in the workers' compensation administration fund provided for in 39-71-201. The department may charge a fee for the certification program, including but not limited to fees for:

(a) initial certification, including examination;

(b) certification renewal;

(c) approval of training curricula, including continuing education courses, course content, instructors, materials, instructional format, and sponsoring organizations; and

(d) specialized training offered by the department."

Section 2. Repealer. Section 5, Chapter 315, Laws of 2015, is repealed.

Section 3. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 1] is effective July 1, 2019.

Approved May 7, 2019

CHAPTER NO. 372

[HB 421]

AN ACT REVISING LAWS REGARDING CRIMES, SPECIFICALLY THEFT AND DISORDERLY CONDUCT; PROVIDING THAT A PERSON WHO IS CONVICTED OF THEFT AND WHO USES AN EMERGENCY EXIT IN FURTHERANCE OF THAT OFFENSE IS SUBJECT TO ENHANCED PENALTIES; PROVIDING PENALTIES FOR DISORDERLY CONDUCT; AMENDING SECTIONS 45-6-301 AND 45-8-101, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 45-6-301, MCA, is amended to read:

“45-6-301. Theft. (1) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(2) A person commits the offense of theft when the person purposely or knowingly obtains by threat or deception control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(3) A person commits the offense of theft when the person purposely or knowingly obtains control over stolen property knowing the property to have been stolen by another and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(4) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over any part of any public assistance provided under Title 52 or 53 by a state or county agency, regardless of the original source of assistance, by means of:

(a) a knowingly false statement, representation, or impersonation; or

(b) a fraudulent scheme or device.

(5) A person commits the offense of theft when the person purposely or knowingly obtains or exerts or helps another obtain or exert unauthorized control over any part of any benefits provided under Title 39, chapter 71, by means of:

(a) a knowingly false statement, representation, or impersonation; or

(b) deception or other fraudulent action.

(6) A person commits the offense of theft of property by embezzlement when, with the purpose to deprive the owner of the property, the person:

(a) purposely or knowingly obtains or exerts unauthorized control over property of the person's employer or over property entrusted to the person; or

(b) purposely or knowingly obtains by deception control over property of the person's employer or over property entrusted to the person.

(7) (a) Except as provided in ~~subsection~~ *subsections (7)(b) and (7)(d)*, a person convicted of *a first offense* of the offense of theft of property not exceeding \$1,500 in value shall be fined an amount not to exceed \$500. A person convicted of a second offense shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be fined an amount not to exceed \$500 and be imprisoned in the county jail for a term of not less than 5 days or more than 1 year.

(b) (i) Except as provided in subsection (7)(c), a person convicted of the offense of theft of property that exceeds \$1,500 in value and does not exceed \$5,000 in value shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 3 years, or both. A person convicted of a second offense shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 5 years, or both. A person convicted of a third or subsequent offense shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined an amount not to exceed \$5,000.

(ii) A person convicted of the theft of property exceeding \$5,000 in value or as part of a common scheme *as defined in 45-2-101*, or the theft of any amount of anhydrous ammonia for the purpose of manufacturing dangerous drugs, shall be fined an amount not to exceed \$10,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

(iii) A person convicted of the theft of any commonly domesticated hoofed animal shall be fined an amount of not less than \$5,000 or more than \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both. If a prison term is deferred, the court shall order the offender to perform 416 hours of community service during a 1-year period, in the offender's county of residence. In addition to the fine and imprisonment, the offender's property is subject to criminal forfeiture pursuant to 45-6-328 and 45-6-329.

(c) A person convicted of the offense of theft of property exceeding \$10,000 in value by embezzlement shall be imprisoned in a state prison for a term of not less than 1 year or more than 10 years and may be fined an amount not to exceed \$50,000. The court may, in its discretion, place the person on probation with the requirement that restitution be made under terms set by the court. If the terms are not met, the required prison term may be ordered.

(d) *A person convicted of a first offense for the offense of theft of property not exceeding \$1,500 in value and who utilized an emergency exit in furtherance of that offense shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. On a second conviction, the offender shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. On a third conviction, the offender shall be fined an amount not to exceed \$5,000 and be imprisoned in the county jail for a term of not less than 5 days or more than 1 year.*

(8) Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the property.

(9) A person convicted of the offense of theft of property not exceeding \$100 in value is presumed to qualify for a deferred imposition of sentence as long as the person has not been convicted of a misdemeanor or felony offense in the past 5 years."

Section 2. Section 45-8-101, MCA, is amended to read:

“45-8-101. Disorderly conduct. (1) A person commits the offense of disorderly conduct if the person knowingly disturbs the peace by:

- (a) quarreling, challenging to fight, or fighting;
- (b) making loud or unusual noises;
- (c) using threatening, profane, or abusive language;
- (d) rendering vehicular or pedestrian traffic impassable;
- (e) rendering the free ingress or egress to public or private places impassable;
- (f) disturbing or disrupting any lawful assembly or public meeting;
- (g) transmitting a false report or warning of a fire or other catastrophe in a place where its occurrence would endanger human life;
- (h) creating a hazardous or physically offensive condition by any act that serves no legitimate purpose; or
- (i) transmitting a false report or warning of an impending explosion in a place where its occurrence would endanger human life; or
- (j) *in the course of engaging in any of the conduct prohibited by subsections (1)(a) through (1)(f) a peace officer recognizes the person’s conduct creates an articulable public safety risk.*

(2) (a) Except as provided in subsections (2)(b) ~~and~~, (3), ~~and~~ (4), a person convicted of the offense of disorderly conduct ~~shall~~ *shall* be fined an amount not to exceed \$100.

(b) A person convicted of a second or subsequent violation of subsections (1)(a) through (1)(f) within 1 year ~~shall~~ *shall* be fined an amount not to exceed \$100 or be imprisoned in the county jail for a term not to exceed 10 days, or *both*.

(3) A person convicted of a violation of subsections (1)(g) through (1)(i) shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or *both*.

(4) *A person convicted of a violation of subsection (1)(j) shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 1 day, or both.”*

Section 3. Applicability. [This act] applies to crimes committed on or after [the effective date of this act].

Approved May 11, 2019

CHAPTER NO. 373

[SB 312]

AN ACT CREATING THE LOOPING IN NATIVE COMMUNITIES NETWORK GRANT PROGRAM; CREATING THE MISSING INDIGENOUS PERSONS TASK FORCE; PROVIDING A COMPETITIVE GRANT FOR A TRIBAL COLLEGE TO DEVELOP AND MAINTAIN THE CENTRAL LOCATION FOR COLLECTING, STORING, AND SECURING NETWORK DATA; PROVIDING GRANT FUNDS TO TRIBAL AGENCIES TO ESTABLISH ACCESS TO THE LOOPING IN NATIVE COMMUNITIES NETWORK; REQUIRING THE MISSING INDIGENOUS PERSONS TASK FORCE TO ADMINISTER THE GRANT PROGRAM; PROVIDING A TRANSFER OF FUNDS AND AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

WHEREAS, Montana is home to eight recognized tribes with over 55,000 enrolled members; and

WHEREAS, Native women and children experience violent crime at significantly higher rates than other American women and children, including being 10 times more likely to be murdered and 9 times more likely to be sexually assaulted; and

WHEREAS, there are more than 5,600 Native women and children in the United States who are currently listed as missing or abducted; and

WHEREAS, there is no comprehensive data collection system for reporting or tracking missing Native American women and children, creating a reporting and investigation gap that makes Native Americans even more vulnerable to violence; and

WHEREAS, 85% of the Native women and children who went missing between 1900 and 2017 were not listed in the Department of Justice's official database; and

WHEREAS, in 2018, at least 25 Native women and children went missing in Montana, and only 1 was found alive; and

WHEREAS, the likelihood of finding a missing person decreases rapidly after the first 24 hours and falls to less than 4% after 72 hours; and

WHEREAS, families of missing Native women and children often encounter layers of jurisdictional bureaucracy that delay or prevent the filing of official reports for days or weeks; and

WHEREAS, a lack of timely action by law enforcement forces families to use social media and community groups to begin looking for missing Native women and children; and

WHEREAS, Montana's U.S. Senators and Representative are leading the charge to combat this bureaucratic inaction, but are encountering resistance from the government agencies who handle tribal and federal law enforcement; and

WHEREAS, in the absence of a federal solution the Legislature of the state of Montana should take steps to identify and track Native men, women, and children who are currently missing, establish a task force to break down jurisdictional barriers, and provide Montana's native communities with the ability to file missing persons reports in a timely manner.

Be it enacted by the Legislature of the State of Montana:

Section 1. Missing indigenous persons task force -- membership -- duties. (1) There is a missing indigenous persons task force. The task force is allocated to the department of justice for staffing services and administrative purposes only.

(2) Task force members, including the presiding officer, must be appointed by the attorney general or a designee of the attorney general. The task force membership must include but is not limited to:

(a) an employee of the department of justice who has expertise in the subject of missing persons;

(b) a representative from each tribal government located on the seven Montana reservations and the Little Shell Chippewa tribe;

(c) a member from the Montana highway patrol; and

(d) a representative from the attorney general's office.

(3) While respecting the government-to-government relationship between the state and each tribe, the primary duties of the task force are to:

(a) administer the looping in native communities network grant program provided for in [section 2]; and

(b) (i) identify jurisdictional barriers between federal, state, local, and tribal law enforcement and community agencies; and

(ii) work to identify strategies to improve interagency communication, cooperation, and collaboration to remove jurisdictional barriers and increase reporting and investigation of missing indigenous persons.

(4) (a) The task force members must be appointed within 60 days after [the effective date of this act]. A vacancy on the task force must be filled in the manner of the original appointment.

(b) The task force shall develop and finalize the looping in native communities network grant application and award criteria no later than October 15, 2019.

(c) The task force shall select the recipient of the looping in native communities network competitive grant under [section 2(2)] and disburse the grant funds no later than March 15, 2020.

(d) The task force must select eligible grantees and disburse funds for any grants awarded pursuant to [section 2(3)] by June 30, 2020.

(e) The task force shall convene at least one meeting with tribal and local law enforcement agencies, federally recognized tribes, and urban Indian organizations for the purposes of subsection (3)(b) and to determine the scope of the problem of missing indigenous women and children.

(f) The task force shall prepare a written report of findings and recommendations for submission to the state-tribal relations interim committee provided for in 5-5-229, no later than September 1, 2020. The report must include a recommendation to the 67th legislature as to whether the task force should continue in existence.

Section 2. Looping in native communities network grant program.

(1) There is a looping in native communities network grant program. The program is established to create a network in support of efforts by Montana tribes to identify, report, and find Native American persons who are missing. The grant program is administered by the missing indigenous persons task force established in [section 1].

(2) The grant program includes a competitive grant to be awarded to one tribal college to create and administer a central administration point for the looping in native communities network. The missing indigenous persons task force shall develop the application and the criteria to award the grant to a tribal college. The criteria must include:

(a) policies and standards for technology and equipment, including data storage and security of information entered into the network;

(b) standards for data verification;

(c) job qualifications and requirements for a data specialist to administer the network;

(d) development of a system to provide automatic initial alerts pursuant to law enforcement, tribal, and community organizations when a missing indigenous person report is made, including determining which law enforcement agencies will receive the automatic initial alert;

(e) development of a standard reporting form that includes space to provide the information specified in subsection (4) to be used by the data specialist; and

(f) administrative rights for a designee at each participating tribal agency.

(3) The grant program may include additional smaller, noncompetitive grants to be awarded to a qualifying tribal agency at each reservation that submits a complete application. The purpose of the grants awarded under this subsection is to provide matching funds for some or all of the costs required for the tribal agency to set up and maintain access to the looping in native communities network.

(4) The standard reporting form required under subsection (2)(e) must allow a data specialist to enter information about the missing indigenous person, including but not limited to the missing person's:

(a) name and any aliases or nicknames;

(b) gender, age, height, weight, and other physical descriptive characteristics;

(c) last known location and related information, including the date of last contact with the missing indigenous person and the person with whom the missing indigenous person last made contact; and

(d) photographs, including photographs obtained from an online or social media profile.

Section 3. Looping in native communities network state special revenue account. There is a looping in native communities network account within the state special revenue fund established in 17-2-102. The purpose of the account is to provide matching funds to tribal agencies to implement the looping in native communities network. The account is administered by the department of justice.

Section 4. Transfer of funds. By July 15, 2019, the state treasurer shall transfer \$25,000 from the state general fund to the looping in native communities network state special revenue account established in [section 3].

Section 5. Appropriation. There is appropriated \$25,000 from the looping in native communities network state special revenue account established in [section 3] to the missing indigenous persons task force established in [section 1] for the biennium beginning July 1, 2019, for the purposes of providing matching funds to tribal agencies to implement the looping in native communities network grant program established in [section 2]. Any funds that are unencumbered by June 30, 2021, must revert to the general fund.

Section 6. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 7. Effective date. [This act] is effective on passage and approval.

Section 8. Termination. [This act] terminates June 30, 2021.

Approved May 8, 2019

CHAPTER NO. 374

[SB 362]

AN ACT REVISING THE REQUIREMENTS FOR THE 24/7 SOBRIETY AND DRUG MONITORING PROGRAM ACT; ALLOWING DISCRETION ON THE FREQUENCY AND TYPE OF TESTING METHODS; REMOVING THE REQUIREMENT FOR A PILOT PROGRAM; AND AMENDING SECTIONS 44-4-1202, 44-4-1203, AND 44-4-1205, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 44-4-1202, MCA, is amended to read:

“44-4-1202. Purpose – definitions. (1) The legislature declares that driving in Montana upon a way of this state open to the public is a privilege, not a right. A driver who wishes to enjoy the benefits of this privilege shall accept the corresponding responsibilities.

(2) The legislature further declares that the purpose of this part is:

(a) to protect the public health and welfare by reducing the number of people on Montana's highways who drive under the influence of alcohol or dangerous drugs;

(b) to protect the public health and welfare by reducing the number of repeat offenders for crimes in which the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime;

(c) to strengthen the pretrial and posttrial options available to prosecutors and judges in responding to repeat DUI offenders or other repeat offenders who commit crimes in which the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime; and

(d) to ensure timely and sober participation in judicial proceedings.

(3) As used in this part, the following definitions apply:

(a) "Core components" means those elements of a sobriety program that analysis demonstrates are most likely to account for positive program outcomes.

(b) "Dangerous drug" has the meaning provided in 50-32-101.

(c) "Department" means the department of justice provided for in 2-15-2001.

(d) "Immediate sanction" means a sanction that is applied within minutes of a noncompliant test event.

(e) "Law enforcement agency" means the county sheriff's office or another law enforcement agency designated by the county sheriff's office that is charged with enforcing the sobriety program.

(f) "Sobriety program" or "program" means the 24/7 sobriety and drug monitoring program established in 44-4-1203, which authorizes a court or an agency as defined in 2-15-102, as a condition of bond, sentence, probation, parole, or work permit, to:

(i) require an individual who has been charged with or convicted of a crime in which the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime, including but not limited to a second or subsequent offense of driving under the influence of alcohol or dangerous drugs, to abstain from alcohol or dangerous drugs for a period of time; and

(ii) require the individual to be subject to testing to determine the presence of alcohol or dangerous drugs:

~~(A) twice a day at a central location where immediate sanctions may be applied;~~

~~(B) when testing twice a day is impractical, by continuous, remote sensing, or transdermal alcohol monitoring by means of an electronic monitoring device that allows timely sanctions to be applied; or~~

~~(C) with the concurrence of the department, by an alternate method that is consistent with 44-4-1203.~~

(g) "Testing" means a procedure for determining the presence and level of alcohol or a dangerous drug in an individual's breath or body fluid, including blood, urine, saliva, or perspiration, and includes any combination of the use of *in person or remote* breath testing, drug patch testing, urinalysis testing, saliva testing, ~~or continuous remote sensing, or transdermal alcohol monitoring.~~ With the concurrence of the department and consistent with 44-4-1203, alternate body fluids may be approved for testing.

(h) "Timely sanction" means a sanction that is applied as soon as practical following a noncompliant test event."

Section 2. Section 44-4-1203, MCA, is amended to read:

"44-4-1203. Sobriety and drug monitoring program created.

(1) There is a statewide 24/7 sobriety and drug monitoring program within the department to be administered by the attorney general.

(2) (a) The core components of the sobriety program must include use of a primary testing methodology for the presence of alcohol or dangerous drugs that:

(i) best facilitates the ability to apply immediate sanctions for noncompliance; and

(ii) is available at an affordable cost.

(b) Primary testing methods for alcohol include twice-a-day, in-person breath testing at a central location and other methodologies approved by the department. Primary testing methodologies must utilize devices that are capable of determining alcohol concentrations below an equivalent breath alcohol concentration of 0.010 grams per 210 liters of breath. If the primary testing methodology is a breath alcohol analysis, the device utilized must be listed on the most recent conforming products list for evidential breath alcohol measurement devices

as published by the national highway traffic safety administration.

~~(b)~~(c) In cases of hardship or when a sobriety program participant is subject to less-stringent testing requirements, testing methodologies with timely sanctions for noncompliance may be utilized. *Hardship testing methodologies include the use of transdermal alcohol monitoring devices, remote breath test devices, and other methods approved by the department. A hardship testing methodology may be used if the court or agency determines that hardship factors, including but not limited to distance from or lack of access to a primary testing method site, prevent the reasonable use of a primary testing method.*

(3) The sobriety program must be supported by evidence of effectiveness and satisfy at least two of the following categories:

(a) the program is included in the federal registry of evidence-based programs and practices;

(b) the program has been reported in a peer-reviewed journal as having positive effects on the primary targeted outcome; or

(c) the program has been documented as effective by informed experts and other sources.

(4) If a law enforcement agency chooses to participate in the sobriety program, the department shall assist in the creation and administration of the program in the manner provided in this part. The department shall also assist entities participating in the program in determining alternatives to incarceration.

(5) (a) If a law enforcement agency participates in the program, the law enforcement agency may designate an entity to provide the testing services or to take any other action required or authorized to be provided by the law enforcement agency pursuant to this part, except that the law enforcement agency's designee may not determine whether to participate in the sobriety program.

(b) The law enforcement agency shall establish the testing locations and times for the county but must have at least one testing location and two daily testing times approximately 12 hours apart.

~~(6) Any efforts by the department to alter or modify the core components of the statewide sobriety program must include a documented strategy for achieving and measuring the effectiveness of the proposed modifications. Before core components may be modified, a pilot program with defined objectives and timelines must be initiated in which measurements of the effectiveness and impact of any proposed modifications to the core components are monitored. The data collected from the pilot program must be assessed by the department, and a determination must be made as to whether the stated goals were achieved and whether the modifications should be formally implemented in the sobriety program.~~

~~(7)~~(6) All alcohol or drug testing ordered by a court must utilize the data management technology plan provided for in 44-4-1204(4). *All alcohol or drug testing ordered by a court must utilize the data management technology system in accordance with the data management technology plan provided*

for in 44-4-1204(4). The data is owned by the state and maintained by the department. Approved testing methodologies, whether designated as primary or hardship, must be capable of electronically transferring data directly into the data management technology system through a department-approved interface.

~~(8)(7) Alcohol In order to provide a more complete record of drug and alcohol testing results, any alcohol or drug testing required by the department of corrections pursuant to this part other state or local agencies must may utilize the data management technology plan provided for in 44-4-1204(4) system."~~

Section 3. Section 44-4-1205, MCA, is amended to read:

"44-4-1205. Authority of court to order participation in sobriety and drug monitoring program – probationary license – imposition of conditions. (1) (a) Any court or agency utilizing the sobriety program may stay any sanctions that it imposed against an offender while the offender is in compliance with the sobriety program.

(b) If an individual convicted of the offense of aggravated driving under the influence in violation of 61-8-465, a second or subsequent offense of driving under the influence in violation of 61-8-401, or a second or subsequent offense of driving with excessive alcohol concentration in violation of 61-8-406 has been required to participate in the sobriety program, the court may, upon the individual's ~~successful completion of a court-approved chemical dependency treatment program and~~ obtaining proof of insurance pursuant to 61-6-301, notify the department that as a participant in the sobriety program, the individual is eligible for a restricted probationary driver's license pursuant to 61-2-302, notwithstanding the requirements of 61-5-208 that an individual is required to complete a certain portion of a suspension period before a probationary license may be issued.

(c) If the individual fails to comply with the requirements of the sobriety program, the court may notify the department of the individual's noncompliance and direct the department to withdraw the individual's probationary driver's license and reinstate the remainder of the suspension period provided in 61-5-208.

(2) Upon an offender's participation in the sobriety program and payment of the fees required by 44-4-1204:

(a) the court may condition any bond or pretrial release for an individual charged with a violation of 61-8-465, a second or subsequent violation of 61-8-401 or 61-8-406, or a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime;

(b) the court may condition the granting of a suspended execution of sentence or probation for an individual convicted of a violation of 61-8-465, a second or subsequent violation of 61-8-401 or 61-8-406, or a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime;

(c) the board of pardons and parole may condition parole for a violation of 61-8-465, a second or subsequent violation of 61-8-401 or 61-8-406, or a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime; or

(d) the department of corrections may establish conditions for conditional release for a violation of 61-8-465, a second or subsequent violation of 61-8-401 or 61-8-406, or a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime.

(3) An entity referred to in subsections (2)(a) through (2)(d) may condition any bond or pretrial release, suspended execution of sentence, probation, parole, or conditional release as provided in those subsections for an individual charged with or convicted of a violation of any statute involving domestic abuse or the abuse or neglect of a minor if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime regardless of whether the charge or conviction was for a first, second, or subsequent violation of the statute.

(4) A person is eligible to participate in and a court may compel a person to participate in a sobriety program if the person:

(a) is charged with violating 61-8-465; or

(b) (i) is charged with or has been convicted of violating 61-8-401 or 61-8-406; and

(ii) at any time in the 10 years preceding the date of the current charge or conviction:

(A) has been convicted in this state of a violation of 61-8-401, 61-8-406, or 61-8-465;

(B) has been convicted of a violation of a statute or regulation in another state or on a federally recognized Indian reservation that is similar to 61-8-401, 61-8-406, or 61-8-465; or

(C) has forfeited bail or collateral deposited to secure the defendant's appearance in court in this state, in another state, or on a federally recognized Indian reservation for a charge of violating 61-8-401, 61-8-406, 61-8-465, or a similar statute or regulation and the forfeiture has not been vacated.

(5) As used in this section, "conviction" has the meaning provided in 45-2-101."

Approved May 8, 2019

CHAPTER NO. 375

[HB 19]

AN ACT REVISING THE DEFINITION OF HIGH-POVERTY COUNTY FOR THE BIG SKY ECONOMIC DEVELOPMENT PROGRAM; AMENDING SECTION 90-1-201, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 90-1-201, MCA, is amended to read:

"90-1-201. Big sky economic development program -- definitions.

(1) (a) There is a big sky economic development program that consists of:

(i) the big sky economic development fund established in 17-5-703; and

(ii) the economic development special revenue account provided for in 90-1-205.

(b) Interest and income from the big sky economic development fund may be used to administer the big sky economic development program and to provide financial assistance for qualified economic development purposes under this part.

(2) As used in this part, the following definitions apply:

(a) "Certified regional development corporation" has the meaning provided in 90-1-116.

(b) "Department" means the department of commerce provided for in 2-15-1801.

(c) "Economic development organization" means:

(i) (A) a private, nonprofit corporation, as provided in Title 35, chapter 2, that is exempt from taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) or 501(c)(6);

(B) an entity certified by the department under 90-1-116; or
 (C) an entity established by a local government; or
 (ii) an entity actively engaged in economic development and business assistance work in a region of the state.

(d) "Employee benefits" means health, welfare, and pension contributions that meet the requirements of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq.

(e) "High-poverty county" means a county in this state ~~in which 14% or more of people of all ages are in~~ *that has a poverty rate greater than Montana's average poverty rate* as determined by the U.S. bureau of the census estimates for the most current year available.

(f) "Local government" means a county, consolidated government, city, town, or district or local public entity with the authority to spend or receive public funds.

(g) "Tribal government" means any one of the seven federally recognized tribal governments of Montana and the Little Shell band of Chippewa Indians."

Section 2. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 3. Effective date. [This act] is effective July 1, 2019.

Approved May 8, 2019

CHAPTER NO. 376

[HB 34]

AN ACT PROVIDING A STATUTORY APPROPRIATION FOR GOOD NEIGHBOR FORESTRY ACCOUNTS; AMENDING SECTIONS 17-7-502 AND 76-13-151, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-321;

61-3-415; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; *76-13-151*; 76-13-416; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023, and pursuant to sec. 2, Ch. 340, L. 2017, and sec. 32, Ch. 429, L. 2017, is void for fiscal years 2018 and 2019; and pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027.)"

Section 2. Section 76-13-151, MCA, is amended to read:

"76-13-151. Good neighbor forestry accounts – uses. (1) There are good neighbor forestry special revenue accounts administered by the department within the state special revenue fund and the federal special revenue fund established in 17-2-102.

(2) (a) All state proceeds allocated or budgeted for the purposes of the good neighbor policy established pursuant to 76-13-104 must be deposited in the state special revenue account provided for in subsection (1) of this section.

(b) Money received by the state in the form of gifts, grants, reimbursements, or allocations from any source intended to be used for the purposes of the good

neighbor policy established pursuant to 76-13-104 must be deposited in the appropriate account provided for in subsection (1) of this section.

(c) Federal funds received by the state through good neighbor agreements with the federal government must be deposited in the federal special revenue account provided for in subsection (1) to be used for the purposes of the good neighbor policy established pursuant to 76-13-104.

(3) ~~The department may spend funds in the accounts~~ *Funds in the accounts are statutorily appropriated, as provided in 17-7-502, to the department only to carry out the provisions of the good neighbor policy established pursuant to 76-13-104."*

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2019

CHAPTER NO. 377

[HB 280]

AN ACT REVISING HOW WOLF LICENSES ARE ISSUED TO RESIDENT HUNTERS; PROVIDING DISCOUNTS FOR CERTAIN LICENSE HOLDERS; AMENDING SECTION 87-2-523, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-2-523, MCA, is amended to read:

"87-2-523. Class E-1—resident wolf license. (1) Except as otherwise provided in this chapter *and in subsection (2) of this section*, a person who is a resident, as defined in 87-2-102, and who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued, upon payment of a fee of \$19, may receive a Class E-1 license that entitles a holder who is 12 years of age or older to hunt a wolf and possess the carcass of the wolf as authorized by commission rules.

(2) *A resident holder of a Class AAA combination sports license, regardless of whether it includes a Class A-6 bear tag, may purchase the first Class E-1 license the person obtains in that license year for \$10.*

(2)(3) A person who purchases a license pursuant to this section after August 31 may not use the license until 24 hours after the license is issued.

(3)(4) Fees collected pursuant to this section must be deposited and used in accordance with 87-1-623."

Section 2. Effective date. [This act] is effective March 1, 2020.

Approved May 8, 2019

CHAPTER NO. 378

[HB 311]

AN ACT REVISING LAWS RELATED TO NONRESIDENT USE OF HOUNDS TO AID IN THE PURSUIT OF MOUNTAIN LIONS; ESTABLISHING A NONRESIDENT HOUND HANDLER LICENSE; PROVIDING EXCEPTIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 87-1-301 AND 87-6-404, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Class D-4—nonresident hound handler license. (1) Except as provided in subsections (5) and (6), in order for a nonresident hound handler

to use a dog or dogs to aid in the pursuit of mountain lions, the nonresident hound handler must first purchase, for a fee of \$500, a Class D-4 nonresident hound handler license. To be eligible, the nonresident must be:

(a) at least 18 years of age or older or turn 18 years of age before or during the season for which the license is issued; and

(b) a holder of a nonresident wildlife conservation license and a Class D-1 nonresident mountain lion license.

(2) Not more than 35 Class D-4 licenses may be sold in any 1 license year.

(3) A Class D-4 license must be used as authorized by this section and any rule adopted by the department or commission.

(4) A holder of a Class D-4 license may only pursue mountain lions for the purpose of personally harvesting a mountain lion and may not assist any other person in the pursuit of a lion for harvest.

(5) A nonresident is not required to have a Class D-4 license to use a dog or dogs to aid in the pursuit or harvest of mountain lions when the nonresident is hunting with an outfitter licensed pursuant to Title 37, chapter 47, part 3.

(6) A nonresident outfitter or guide licensed pursuant to Title 37, chapter 47, part 3, is not required to have a Class D-4 license.

(7) After recovering the costs associated with license administration, the department shall use revenue collected from the sale of licenses pursuant to this section for the management, conservation, and monitoring of mountain lions.

(8) The cost of the Class D-4 license must be adjusted annually based on any change to the consumer price index from the previous year. The consumer price index to be used for calculations is the consumer price index for all urban consumers (CPI-U). The adjusted cost must be rounded down to the nearest even-numbered amount.

Section 2. Section 87-1-301, MCA, is amended to read:

"87-1-301. Powers of commission. (1) Except as provided in subsections (6) and (7), the commission:

(a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department related to fish and wildlife as provided by law;

(b) shall establish the hunting, fishing, and trapping rules of the department;

(c) except as provided in 23-1-111 and 87-1-303(3), shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

(d) must have the power within the department to establish wildlife refuges and bird and game preserves;

(e) shall approve all acquisitions or transfers by the department of interests in land or water, except as provided in 23-1-111 and 87-1-209(2) and (4);

(f) except as provided in 23-1-111, shall review and approve the budget of the department prior to its transmittal to the office of budget and program planning;

(g) except as provided in 23-1-111, shall review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000;

(h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided in 87-1-323. In developing or implementing an elk management plan, the commission shall consider landowner tolerance when deciding whether to

restrict elk hunting on surrounding public land in a particular hunting district. As used in this subsection (1)(h), "landowner tolerance" means the written or documented verbal opinion of an affected landowner regarding the impact upon the landowner's property within the particular hunting district where a restriction on elk hunting on public property is proposed.

(i) shall set the policies for the salvage of antelope, deer, elk, or moose pursuant to 87-3-145; and

(j) shall comply with, adopt policies that comply with, and ensure the department implements in each region the provisions of state wildlife management plans adopted following an environmental review conducted pursuant to Title 75, chapter 1, parts 1 through 3.

(2) The commission may adopt rules regarding the use and type of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in archery equipment change.

(3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or enhance hunting by Montana's youth and persons with disabilities.

(4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

(i) separate deer licenses from nonresident elk combination licenses;

(ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;

(iii) condition the use of the deer licenses; and

(iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and appropriate to regulate the harvest by nonresident big game combination license holders:

(i) for the biologically sound management of big game populations of elk, deer, and antelope;

(ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and

(iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321 through 87-1-325.

(5) (a) ~~The Subject to the provisions of subsection (5)(b),~~ the commission may adopt rules to:

(i) limit the number of nonresident mountain lion hunters in designated hunting districts; and

(ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting districts.

(b) *The commission shall adopt rules for the use of and set quotas for the sale of Class D-4 nonresident hound handler licenses by hunting district, portions of a hunting district, group of districts, or administrative regions. However, no more than two Class D-4 licenses may be issued in any one hunting district per license year.*

~~(b)(c)~~ The commission shall consider, but is not limited to consideration of, the following factors:

(i) harvest of lions by resident and nonresident hunters;

(ii) history of quota overruns;

(iii) composition, including age and sex, of the lion harvest;

(iv) historical outfitter use;

(v) conflicts among hunter groups;

(vi) availability of public and private lands; and

(vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

(6) The commission may not regulate the use or possession of firearms, firearm accessories, or ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

(a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the establishment of special archery seasons;

(b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including bows and arrows, traditional handguns, and muzzleloading rifles;

(c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

(d) the regulation of migratory game bird hunting pursuant to 87-3-403; or

(e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h).

(7) Pursuant to 23-1-111, the commission does not oversee department activities related to the administration of state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9."

Section 3. Section 87-6-404, MCA, is amended to read:

"87-6-404. Unlawful use of dog while hunting. (1) Except as provided in subsections (3) through (6) (7), a person may not:

(a) chase any game animal or fur-bearing animal with a dog; or

(b) purposely, knowingly, or negligently permit a dog to chase, stalk, pursue, attack, or kill a hooved game animal. If the dog is not under the control of an adult at the time of the violation, the owner of the dog is personally responsible. A defense that the dog was allowed to run at large by another person is not allowable unless it is shown that at the time of the violation, the dog was running at large without the consent of the owner and that the owner took reasonable precautions to prevent the dog from running at large.

(2) Except as provided in subsection (3)(d), a peace officer, game warden, or other person authorized to enforce the Montana fish and game laws who witnesses a dog chasing, stalking, pursuing, attacking, or killing a hooved game animal may destroy that dog on public land or on private land at the request of the landowner without criminal or civil liability.

(3) A person may:

(a) take game birds during the appropriate open season with the aid of a dog;

(b) hunt mountain lions during the winter open season, as established by the commission, with the aid of a dog or dogs;

(c) hunt bobcats during the trapping season, as established by the commission, with the aid of a dog or dogs; and

(d) use trained or controlled dogs to chase or herd away game animals or fur-bearing animals to protect humans, lawns, gardens, livestock, or agricultural products, including growing crops and stored hay and grain. The dog may not be destroyed pursuant to subsection (2).

(4) A resident who possesses a Class D-3 resident hound training license may pursue mountain lions and bobcats with a dog or dogs during a training season from December 2 of each year to April 14 of the following year.

(5) *A nonresident who possesses a Class D-4 hound handler license may pursue mountain lions with a dog or dogs pursuant to [section 1].*

(5)(6) (a) A person with a valid hunting license issued pursuant to Title 87, chapter 2, may use a dog to track a wounded game animal during an appropriate open season. Any person using a dog in this manner:

(i) shall maintain physical control of the dog at all times by means of a maximum 50-foot lead attached to the dog's collar or harness;

(ii) during the general season, whether handling or accompanying the dog, shall wear hunter orange material pursuant to 87-6-414;

(iii) may carry any weapon allowed by law;

(iv) may dispose of the wounded game animal using any weapon allowed by the valid hunting license; and

(v) shall tag an animal that has been reduced to possession in accordance with 87-6-411.

(b) Dog handlers tracking a wounded game animal with a dog are exempt from licensing requirements under Title 87, chapter 2, as long as they are accompanied by the licensed hunter who wounded the game animal.

(6)(7) Any person or association organized for the protection of game may run field trials at any time upon obtaining written permission from the director.

(7)(8) A person who is convicted of or who forfeits bond or bail after being charged with a violation of this section shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, and trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(8)(9) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 through 87-6-907."

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 87, chapter 2, part 5, and the provisions of Title 87, chapter 2, part 5, apply to [section 1].

Section 5. Effective date. [This act] is effective March 1, 2020.

Approved May 8, 2019

CHAPTER NO. 379

[HB 443]

AN ACT REVISING REQUIREMENTS FOR HOBBYIST APIARIES; REQUIRING REGISTRATION OF HOBBYIST APIARY SITES; AMENDING SECTIONS 80-6-102, 80-6-106, 80-6-114, AND 80-6-201, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 80-6-102, MCA, is amended to read:

"80-6-102. Registration classes -- reregistration -- fees. (1) ~~Except as provided in 80-6-114, a~~ A person who owns or possesses an apiary in the state shall, before April 1 each year, reregister the apiary site. A person who owns or possesses any bees, hives, colonies, or beekeeping equipment in this state or who owns or possesses an apiary in this state and who fails or refuses to register or reregister as provided in this part is subject to a civil penalty as set forth in 80-6-303.

(2) (a) Before a certificate of registration may be issued for an apiary site, the owner or applicant for a certificate shall pay a reregistration fee to the department. *From July 1, 2019, to June 30, 2021, the department may not*

charge a hobbyist beekeeper an annual hobbyist apiary site registration or reregistration fee in excess of \$19.

(b) The annual fee for reregistering an apiary site may not be less than \$10 or more than \$50. The department may adjust the fee by rule to maintain adequate funding for this part.

(c) If, after reregistration, additional or new apiary sites are authorized for a registered apiary, fees must be paid by the registrant in accordance with subsection (2)(b).

(d) A site reregistration not applied for by April 1 of each year is a delinquent reregistration and is subject to a penalty fee of 10% of the regular reregistration fee or \$10, whichever is greater.

(3) (a) A registrant who fails to apply for reregistration by April 1 of each year must be notified of the delinquency by the department. Notification must be by certified mail, addressed to the registrant at the registrant's most recent address listed in the department's apiary registration files and is considered sufficient when deposited in a United States post office box or mail box on or before April 21.

(b) If a delinquent reregistration is not reregistered by June 1, the registration is forfeited and all rights under the registration are terminated. After June 1, apiary sites that have not been reregistered may be deleted from the registration database.

(4) There are four classes of apiary site registration. The conditions under which the department may issue certificates of registration for each class are specified in 80-6-111 through 80-6-114.

(5) Registration application blanks must be furnished by the department. The applicant shall provide the following information:

(a) a statement of the applicant's name, telephone number, and mailing address;

(b) the location of the apiary site, specifically the nearest quarter section, section, township, and range or the GPS coordinates of the site;

(c) the name of the current owner, renter, or occupant of the land on which the apiary site is located;

(d) when the application is for a new apiary site being registered for the first time, the application must also show that the owner, renter, or occupant of the land has consented in writing to the apiary being located on that land;

(e) the class of apiary site registration for which application is being made; and

(f) other information that the department may require under rules adopted by it for the protection, safety, and welfare of the public and the beekeeping industry.

(6) Upon receipt of the application and payment of the fees prescribed, the department may issue certificates of registration for the apiary sites, setting forth the name of the owner, the specific locations, and the class of apiary sites authorized by the registration.

(7) In issuing certificates of registration for apiary sites, if there is a conflict between applicants with respect to location, the department shall give preference to the applicant having the oldest continuously registered apiary site.

(8) Suitable evidence of registration must be posted by the apiary registrant in a conspicuous place at or near the apiary site. If an owner has more than one apiary site, suitable evidence of registration must be posted at each apiary site. If the identity of hives cannot be determined, the apiary site may be quarantined by the department and all hives may be removed, destroyed, sold

at public auction, or handled in another appropriate manner at the discretion of the department.

(9) A reregistration may not be granted pursuant to this section if a civil penalty due under 80-6-303 has not been paid.”

Section 2. Section 80-6-106, MCA, is amended to read:

“80-6-106. Application fee. (1) At the time a new application to register an apiary site is submitted to the department by an owner or applicant not currently registered in the department’s apiary database, the owner or applicant shall pay an application fee. *The Except as provided in subsection (2), the fee may not be less than \$10 or more than \$100.*

(2) *From July 1, 2019, to June 30, 2021, the department may not charge an owner or applicant who is a hobbyist beekeeper and is not registered in the department’s apiary database a hobbyist apiary site application fee in excess of \$19.*

(3) *The Except as provided in subsection (2), the department may adjust the fee by rule to maintain adequate funding for this part.”*

Section 3. Section 80-6-114, MCA, is amended to read:

“80-6-114. Hobbyist apiary site – voluntary registrations. ~~(1) A hobbyist apiary site is exempt from the registration provisions of this part, but a hobbyist beekeeper may voluntarily register with the department under this section. A hobbyist beekeeper voluntarily registering a site shall pay any required registration fee but is not required to reregister pursuant to 80-6-102.~~

(2)(1) The department may grant hobbyist apiary site registrations to hobbyist beekeepers under the following conditions:

(a) The applicant may not own a total of more than five hives, and all of the hives must be placed on the hobbyist apiary site.

(b) The applicant must own the bees and the hives and must personally manage and operate the bees and the hives.

(c) Only one hobbyist apiary site registration is allowed for an applicant and only two hobbyist apiary site registrations are allowed for a family unit.

~~(3)(2)~~ (2) A certificate of registration of a hobbyist apiary site may not be leased, assigned, or transferred. A person, other than the hobbyist apiary site registrant, may not exercise any rights or privileges, directly or indirectly, authorized by the certificate of registration.”

Section 4. Section 80-6-201, MCA, is amended to read:

“80-6-201. Apiaries – powers and duties of department. (1) To prevent the spread of pests and contagious and infectious disease among bees and apiaries, the department may:

(a) enter private land containing an apiary site and fly over or enter any farm, railroad right-of-way, or other grounds or premises containing an apiary site to determine the health or ownership of the bees. The department shall provide at least 24 hours’ notice to a private landowner before entering private land.

(b) order the transfer of colonies of bees from hives or containers that cannot be properly examined for brood or other diseases to other hives or containers;

(c) order disinfection of any bees, hives, brood comb, or any other equipment that is infected or contaminated with disease or pests and burn the infected or contaminated bees, hives, brood comb, or any other equipment if, in its judgment, disinfection will not remove the infection or contamination. Before burning any property, the department shall give the person to whom the apiary site is registered ~~or the owner of an unregistered hobbyist apiary site~~ a written notice at least 5 days before the date the property will be burned. The notice must be given by certified mail or personal service. Before burning

any equipment, the department shall notify the owner of the land on which the apiary site is located.

(d) quarantine any apiary site where pests, foulbrood, or any other contagious or infectious diseases are present with the following conditions:

(i) During the quarantine, the department shall prevent the removal from the apiary site of any bees or equipment except under a special permit issued by the department permitting the removal under conditions prescribed by the department.

(ii) A person may not sell or offer for sale any apiary site, bees, or equipment under quarantine unless a permit authorizing the sale or removal is issued by the department.

(iii) Written notice of quarantine must be posted by the department, owner, or person in charge at the quarantined apiary site at a conspicuous place, and a copy must be personally served or sent by certified mail to the owner of the apiary site at the owner's last-known address or to the person in charge. The quarantine continues in effect until it is ordered removed and a copy of the removal order is served in the same manner.

(iv) The owner or person in charge of the quarantined apiary site may enter the premises for standard care and maintenance of the bees.

(e) establish by rule interior and exterior quarantines to prevent the entry or spread of diseases or pests that are not known to occur in Montana;

(f) inspect apiaries, hives, equipment, or premises for the presence of disease or pests;

(g) inspect any apiary site at the request of and at the expense of any interested party;

(h) promulgate and enforce rules adopted pursuant to parts 1 through 3 of this chapter.

(2) A person failing to comply with a rule, order, or provision of a quarantine pursuant to this section is subject to penalties provided for in 80-6-303.

(3) The department may provide disease and pest inspection, sampling, and laboratory analysis services for a fee. The department shall adopt rules setting the fee commensurate with costs and establishing procedures for sampling and analysis.

(4) The department may enter into agreements with the United States department of agriculture, other federal agencies, other states, municipal authorities, and individual Montana beekeepers in carrying out the provisions of this part."

Section 5. Effective date. [This act] is effective July 1, 2019.

Approved May 8, 2019

CHAPTER NO. 380

[HB 463]

AN ACT GENERALLY REVISING LAWS RELATED TO SUPERVISION OF PROBATIONERS AND DEFENDANTS SERVING A DEFERRED OR SUSPENDED SENTENCE; REVISING PROCEDURES RELATED TO TERMINATION OF A DEFERRED OR SUSPENDED SENTENCE; REVISING PROCEDURES RELATED TO GRANTING CONDITIONAL DISCHARGE TO A PROBATIONER; AMENDING SECTIONS 46-18-208 AND 46-23-1011, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 46-18-208, MCA, is amended to read:

“46-18-208. Termination of remaining portion of deferred or suspended sentence – petition motion. (1) When imposition of a sentence has been deferred or execution of a sentence has been suspended, the prosecutor, the defendant, or the defendant’s ~~probation and parole officer~~ attorney may file a ~~petition~~ motion to terminate the time remaining on the sentence if:

(a) in the case of a deferred imposition of sentence, the defendant has served 2 years or one-half of the sentence, whichever is less, and has demonstrated compliance with supervision requirements; or

(b) in the case of a suspended sentence:

(i) the defendant has served 3 years or two-thirds of the time suspended, whichever is less; and

(ii) the defendant has been granted a conditional discharge from supervision under 46-23-1011 and has demonstrated compliance with the conditional discharge for a minimum of 12 months.

~~(2) The court may hold a hearing on the petition on its own motion or on request of the prosecutor or the defendant. Unless the court requires a hearing, the remaining portion of the deferred or suspended sentence is terminated 30 days after the petition is filed.~~

~~(2) The motion must set forth the following:~~

~~(a) why the defendant meets the time limitations provided in subsection (1); and~~

~~(b) how the defendant has demonstrated compliance with supervision requirements.~~

~~(3) The motion must be served on the county attorney serving in the county of the presiding district court. The movant does not need to file an accompanying brief as otherwise required by Rule 2 of the Montana Uniform District Court Rules.~~

~~(4) The department of corrections shall make reasonable efforts to notify the victim if required by 46-24-212, and the county attorney shall make reasonable efforts to notify the victim. The victim must be provided the following information:~~

~~(a) a copy of the motion;~~

~~(b) written notice that:~~

~~(i) the victim may provide written input regarding the motion or may ask the county attorney to state the victim’s position on the motion;~~

~~(ii) if a hearing is set, the date, time, and place of the hearing; and~~

~~(iii) the victim may appear and testify at any hearing held on the motion.~~

~~(5) The court may hold a hearing on its own motion and may consider a hearing request from the county attorney or defendant.~~

~~(3)(6) If the court requires a hearing on the petition motion, the court may grant the petition motion if it finds that:~~

~~(a) termination of the remainder of the sentence is in the best interests of the defendant and society;~~

~~(b) termination of the remainder of the sentence will not present an unreasonable risk of danger to the victim of the offense; and~~

~~(c) the defendant has paid all restitution and court-ordered financial obligations in full.”~~

Section 2. Section 46-23-1011, MCA, is amended to read:

“46-23-1011. Supervision on probation. (1) The department shall supervise probationers during their probation period, including supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4), in accord with the conditions set by a sentencing judge. If the sentencing judge did not set conditions of probation at the time of sentencing, the court shall, at the

request of the department, hold a hearing and set conditions of probation. The probationer must be present at the hearing. The probationer has the right to counsel as provided in chapter 8 of this title.

(2) If the probationer is being supervised for a sexual offense as defined in 46-23-502, the conditions of probation may require the probationer to refrain from direct or indirect contact with the victim of the offense or an immediate family member of the victim. If the victim or an immediate family member of the victim requests to the department that the probationer not contact the victim or immediate family member, the department shall request a hearing with a sentencing judge and recommend that the judge add the condition of probation. If the victim is a minor, a parent or guardian of the victim may make the request on the victim's behalf.

(3) A copy of the conditions of probation must be signed by the probationer. The department may require a probationer to waive extradition for the probationer's return to Montana.

(4) The probation and parole officer shall regularly advise and consult with the probationer using effective communication strategies and other evidence-based practices to encourage the probationer to improve the probationer's condition and conduct and shall inform the probationer of the restoration of rights on successful completion of the sentence.

(5) (a) The probation and parole officer may recommend and a judge may modify or add any condition of probation or suspension of sentence at any time.

(b) The probation and parole officer shall provide the county attorney in the sentencing jurisdiction with a report that identifies the conditions of probation and the reason why the officer believes that the judge should modify or add the conditions.

(c) The county attorney may file a petition requesting that the court modify or add conditions as requested by the probation and parole officer.

(d) The court may grant the petition if the probationer does not object. If the probationer objects to the petition, the court shall hold a hearing pursuant to the provisions of 46-18-203.

(e) Except as they apply to supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4), the provisions of 46-18-203(7)(a)(ii) do not apply to this section.

(f) The probationer shall sign a copy of new or modified conditions of probation. The court may waive or modify a condition of restitution only as provided in 46-18-246.

(6) (a) Based on the risk and needs of each individual as determined by the individual's most recent risk and needs assessment, the probation and parole officer shall recommend conditional discharge *from supervision* when a probationer is in compliance with the conditions of supervision when:

(i)(a) a low-risk probationer has served 9 months;

(ii)(b) a ~~medium-risk~~ moderate-risk probationer has served 12 months;

(iii)(c) a ~~moderate-risk~~ medium-risk probationer has served 18 months; and

(iv)(d) a high-risk probationer has served 24 months.

(7) *The probationer, the probationer's attorney, or the prosecutor may file a motion recommending conditional discharge. The motion must set forth the following:*

(a) *why the probationer meets the requirements of subsection (6); and*

(b) *whether the department of corrections supports or opposes the motion.*

(8) *The motion must be served on the county attorney serving in the county of the presiding district court. The movant does not need to file an accompanying*

brief as otherwise required by Rule 2 of the Montana Uniform District Court Rules.

(9) The department of corrections shall make reasonable efforts to notify the victim if required by 46-24-212, and the county attorney shall make reasonable efforts to notify the victim. The victim must be provided the following:

(a) a copy of the motion;

(b) written notice that:

(i) the victim may provide written input regarding the motion or may ask the county attorney to state the victim's position on the motion;

(ii) if a hearing is set, the date, time, and place of the hearing; and

(iii) the victim may appear and testify at any hearing held on the motion.

~~(b)(10) (a) On recommendation of the probation and parole officer, a~~ The court may hold a hearing on the motion. A judge may conditionally discharge a probationer from supervision before expiration of the probationer's sentence if:

(i) the judge determines that a conditional discharge from supervision:

(A) is in the best interests of the probationer and society; and

(B) will not present unreasonable risk of danger to the victim of the offense; and

(ii) the offender has paid all restitution and court-ordered financial obligations in full.

~~(c)(b)~~ Subsection ~~(6)(b)~~ (10)(a) does not prohibit a judge from revoking the order suspending execution or deferring imposition of sentence, as provided in 46-18-203, for a probationer who has been conditionally discharged from supervision."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2019

CHAPTER NO. 381

[HB 497]

AN ACT ALLOWING ADDITIONAL ANTLERLESS ELK TO BE HARVESTED; AMENDING SECTIONS 87-2-104 AND 87-2-501, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-2-104, MCA, is amended to read:

"87-2-104. Number of licenses, permits, or tags allowed – fees.

(1) The department may prescribe rules and regulations for the issuance or sale of a replacement license, permit, or tag if the original license, permit, or tag is lost, stolen, or destroyed upon payment of a fee not to exceed \$5.

(2) When authorized by the commission for game management purposes, the department may:

(a) issue more than one Class A-3 resident deer A, Class A-4 resident deer B, Class B-7 nonresident deer A, Class B-8 nonresident deer B, Class E-1 resident wolf, Class E-2 nonresident wolf, or special antelope license to an applicant; and

(b) issue a special antlerless moose license, a special cow or calf bison license, or one or more special adult ewe mountain sheep licenses to an applicant; and

(c) issue one or more Class A-9 resident antlerless elk B tag licenses or Class B-12 nonresident antlerless elk B tag licenses to an applicant. Unless otherwise reduced pursuant to subsection (4), the fee for a Class B-12 license is \$270.

(3) For all of the game management licenses issued under subsection (2), the commission shall determine the hunting districts or portions of hunting

districts for which the licenses are to be issued, the number of licenses to be issued, and all terms and conditions for the use of the licenses.

~~(4) When authorized by the commission for game management purposes, the department may issue Class A-9 resident antlerless elk B tag licenses and Class B-12 nonresident antlerless elk B tag licenses entitling the holder to take an antlerless elk. Unless otherwise reduced pursuant to subsection (5), the fee for a Class B-12 license is \$270. The commission shall determine the hunting districts or portions of hunting districts for which Class A-9 and Class B-12 licenses are to be issued, the number of licenses to be issued, and all terms and conditions for the use of the licenses.~~

~~(5)(4) The fee for a resident or nonresident license of any class issued under subsection (2) or (4) may be reduced annually by the department."~~

Section 2. Section 87-2-501, MCA, is amended to read:

"87-2-501. Class A-3, A-4, A-5, A-6, A-7, A-9--resident deer, elk, and bear licenses – special Class A-7 resident and nonresident license requirements and preference – fees. (1) Except as otherwise provided in this chapter, a resident, as defined by 87-2-102, or a nonresident who wishes to purchase a Class A-7 elk license only and who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued, upon payment of the proper fee or fees, is entitled to purchase one each of the following licenses at the prescribed cost that will entitle a holder who is 12 years of age or older to hunt the game animal or animals authorized by the license held and to possess the carcasses of those game animals as authorized by department rules:

- (a) Class A-3, deer A tag, \$16;
- (b) Class A-4, deer B tag, \$10;
- (c) Class A-5, elk tag, \$20;
- (d) Class A-6, black bear tag, \$19;
- (e) Class A-7, antlerless elk tag, \$20;
- (f) Class A-9, resident antlerless elk B tag, \$20.

(2) (a) The holder of a Class A-7 antlerless elk license who is 12 years of age or older is entitled to hunt antlerless elk in areas designated by the commission and at the times and upon the terms set forth by the commission.

(b) ~~Subject~~ *Subject* to the management provisions provided in 87-1-321 through 87-1-325, a person may not take more than ~~two~~ *three* elk during any license year, only one of which may be antlered. A person holding a Class A-7 antlerless elk tag may not take an elk during the same license year with a Class A-5 license or nonresident elk tag. The use of Class A-7 antlerless elk licenses does not preclude the department's use of special elk permits.

(c) Subject to the management provisions provided in 87-1-321 through 87-1-325, a nonresident shall hold a nonresident Class B-10 license as a prerequisite to application for a Class A-7 license.

(3) Subject to the limitation of subsection (5), a person who owns or is contracting to purchase 640 acres or more of contiguous land, at least some of which is used by elk, in a hunting district where Class A-7 licenses are awarded under this section must be issued, upon application, a Class A-7 license.

(4) An applicant who receives a Class A-7 license under subsection (3) may designate that the license be issued to an immediate family member or a person employed by the landowner. A corporation owning qualifying land under subsection (3) may designate one of its shareholders to receive the license.

(5) Subject to the management provisions provided in 87-1-321 through 87-1-325, 15% of the Class A-7 licenses available each year under this section in a hunting district must be available to landowners under subsection (3)."

Section 3. Effective date. [This act] is effective on passage and approval.
Approved May 8, 2019

CHAPTER NO. 382

[HB 502]

AN ACT GENERALLY REVISING INVESTIGATIONS BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES INTO CHILD ABUSE AND NEGLECT REPORTS; REVISING WHERE A LEGISLATOR MAY VIEW CERTAIN RECORDS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 41-3-102, 41-3-202, 41-3-203, 41-3-204, 41-3-205, 41-3-208, AND 50-16-603, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 41-3-102, MCA, is amended to read:

“41-3-102. Definitions. As used in this chapter, the following definitions apply:

(1) (a) “Abandon”, “abandoned”, and “abandonment” mean:

(i) leaving a child under circumstances that make reasonable the belief that the parent does not intend to resume care of the child in the future;

(ii) willfully surrendering physical custody for a period of 6 months and during that period not manifesting to the child and the person having physical custody of the child a firm intention to resume physical custody or to make permanent legal arrangements for the care of the child;

(iii) that the parent is unknown and has been unknown for a period of 90 days and that reasonable efforts to identify and locate the parent have failed; or

(iv) the voluntary surrender, as defined in 40-6-402, by a parent of a newborn who is no more than 30 days old to an emergency services provider, as defined in 40-6-402.

(b) The terms do not include the voluntary surrender of a child to the department solely because of parental inability to access publicly funded services.

(2) “A person responsible for a child’s welfare” means:

(a) the child’s parent, guardian, or foster parent or an adult who resides in the same home in which the child resides;

(b) a person providing care in a day-care facility;

(c) an employee of a public or private residential institution, facility, home, or agency; or

(d) any other person responsible for the child’s welfare in a residential setting.

(3) “Abused or neglected” means the state or condition of a child who has suffered child abuse or neglect.

(4) (a) “Adequate health care” means any medical care or nonmedical remedial health care recognized by an insurer licensed to provide disability insurance under Title 33, including the prevention of the withholding of medically indicated treatment or medically indicated psychological care permitted or authorized under state law.

(b) This chapter may not be construed to require or justify a finding of child abuse or neglect for the sole reason that a parent or legal guardian, because of religious beliefs, does not provide adequate health care for a child. However, this chapter may not be construed to limit the administrative or judicial

authority of the state to ensure that medical care is provided to the child when there is imminent substantial risk of serious harm to the child.

(5) “Best interests of the child” means the physical, mental, and psychological conditions and needs of the child and any other factor considered by the court to be relevant to the child.

(6) “Child” or “youth” means any person under 18 years of age.

(7) (a) “Child abuse or neglect” means:

(i) actual physical or psychological harm to a child;

(ii) substantial risk of physical or psychological harm to a child; or

(iii) abandonment.

(b) (i) The term includes:

(A) actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child’s welfare; or

(B) exposing a child to the criminal distribution of dangerous drugs, as prohibited by 45-9-101, the criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110, or the operation of an unlawful clandestine laboratory, as prohibited by 45-9-132.

(ii) For the purposes of this subsection (7), “dangerous drugs” means the compounds and substances described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2.

(c) In proceedings under this chapter in which the federal Indian Child Welfare Act is applicable, this term has the same meaning as “serious emotional or physical damage to the child” as used in 25 U.S.C. 1912(f).

(d) The term does not include self-defense, defense of others, or action taken to prevent the child from self-harm that does not constitute physical or psychological harm to a child.

(8) “Concurrent planning” means to work toward reunification of the child with the family while at the same time developing and implementing an alternative permanent plan.

(9) “Department” means the department of public health and human services provided for in 2-15-2201.

(10) “Family group decisionmaking meeting” means a meeting that involves family members in either developing treatment plans or making placement decisions, or both.

(11) “Indian child” means any unmarried person who is under 18 years of age and who is either:

(a) a member of an Indian tribe; or

(b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

(12) “Indian child’s tribe” means:

(a) the Indian tribe in which an Indian child is a member or eligible for membership; or

(b) in the case of an Indian child who is a member of or eligible for membership in more than one Indian tribe, the Indian tribe with which the Indian child has the more significant contacts.

(13) “Indian custodian” means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control have been transferred by the child’s parent.

(14) “Indian tribe” means any Indian tribe, band, nation, or other organized group or community of Indians recognized by:

(a) the state of Montana; or

(b) the United States secretary of the interior as being eligible for the services provided to Indians or because of the group's status as Indians, including any Alaskan native village as defined in federal law.

(15) "Limited emancipation" means a status conferred on a youth by a court in accordance with 41-1-503 under which the youth is entitled to exercise some but not all of the rights and responsibilities of a person who is 18 years of age or older.

(16) "Parent" means a biological or adoptive parent or stepparent.

(17) "Parent-child legal relationship" means the legal relationship that exists between a child and the child's birth or adoptive parents, as provided in Title 40, chapter 6, part 2, unless the relationship has been terminated by competent judicial decree as provided in 40-6-234, Title 42, or part 6 of this chapter.

(18) "Permanent placement" means reunification of the child with the child's parent, adoption, placement with a legal guardian, placement with a fit and willing relative, or placement in another planned permanent living arrangement until the child reaches 18 years of age.

(19) "Physical abuse" means an intentional act, an intentional omission, or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death.

(20) "Physical neglect" means either failure to provide basic necessities, including but not limited to appropriate and adequate nutrition, protective shelter from the elements, and appropriate clothing related to weather conditions, or failure to provide cleanliness and general supervision, or both, or exposing or allowing the child to be exposed to an unreasonable physical or psychological risk to the child.

(21) (a) "Physical or psychological harm to a child" means the harm that occurs whenever the parent or other person responsible for the child's welfare:

(i) inflicts or allows to be inflicted upon the child physical abuse, physical neglect, or psychological abuse or neglect;

(ii) commits or allows sexual abuse or exploitation of the child;

(iii) induces or attempts to induce a child to give untrue testimony that the child or another child was abused or neglected by a parent or other person responsible for the child's welfare;

(iv) causes malnutrition or a failure to thrive or otherwise fails to supply the child with adequate food or fails to supply clothing, shelter, education, or adequate health care, though financially able to do so or offered financial or other reasonable means to do so;

(v) exposes or allows the child to be exposed to an unreasonable risk to the child's health or welfare by failing to intervene or eliminate the risk; or

(vi) abandons the child.

(b) The term does not include a youth not receiving supervision solely because of parental inability to control the youth's behavior.

(22) (a) "Protective services" means services provided by the department:

(i) to enable a child alleged to have been abused or neglected to remain safely in the home;

(ii) to enable a child alleged to have been abused or neglected who has been removed from the home to safely return to the home; or

(iii) to achieve permanency for a child adjudicated as a youth in need of care when circumstances and the best interests of the child prevent reunification with parents or a return to the home.

(b) The term includes emergency protective services provided pursuant to 41-3-301, voluntary protective services provided pursuant to 41-3-302, and court-ordered protective services provided pursuant to parts 4 and 6 of this chapter.

(23) (a) “Psychological abuse or neglect” means severe maltreatment through acts or omissions that are injurious to the child’s emotional, intellectual, or psychological capacity to function, including the commission of acts of violence against another person residing in the child’s home.

(b) The term may not be construed to hold a victim responsible for failing to prevent the crime against the victim.

(24) “Qualified expert witness” as used in cases involving an Indian child in proceedings subject to the federal Indian Child Welfare Act means:

(a) a member of the Indian child’s tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and child-rearing practices;

(b) a lay expert witness who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child-rearing practices within the Indian child’s tribe; or

(c) a professional person who has substantial education and experience in providing services to children and families and who possesses significant knowledge of and experience with Indian culture, family structure, and child-rearing practices in general.

(25) “Reasonable cause to suspect” means cause that would lead a reasonable person to believe that child abuse or neglect may have occurred or is occurring, based on all the facts and circumstances known to the person.

(26) “Residential setting” means an out-of-home placement where the child typically resides for longer than 30 days for the purpose of receiving food, shelter, security, guidance, and, if necessary, treatment.

(27) “*Safety and risk assessment*” means an evaluation by a social worker following an initial report of child abuse or neglect to assess the following:

(a) *the existing threat or threats to the child’s safety;*

(b) *the protective capabilities of the parent or guardian;*

(c) *any particular vulnerabilities of the child;*

(d) *any interventions required to protect the child; and*

(e) *the likelihood of future physical or psychological harm to the child.*

(27)(28) (a) “Sexual abuse” means the commission of sexual assault, sexual intercourse without consent, indecent exposure, sexual abuse, ritual abuse of a minor, or incest, as described in Title 45, chapter 5.

(b) Sexual abuse does not include any necessary touching of an infant’s or toddler’s genital area while attending to the sanitary or health care needs of that infant or toddler by a parent or other person responsible for the child’s welfare.

(28)(29) “Sexual exploitation” means allowing, permitting, or encouraging a child to engage in a prostitution offense, as described in 45-5-601 through 45-5-603, or allowing, permitting, or encouraging sexual abuse of children as described in 45-5-625.

(29)(30) (a) “Social worker” means an employee of the department who, before the employee’s field assignment, has been educated or trained in a program of social work or a related field that includes cognitive and family systems treatment or who has equivalent verified experience or verified training in the investigation of child abuse, neglect, and endangerment.

(b) This definition does not apply to any provision of this code that is not in this chapter.

(30)(31) "Treatment plan" means a written agreement between the department and the parent or guardian or a court order that includes action that must be taken to resolve the condition or conduct of the parent or guardian that resulted in the need for protective services for the child. The treatment plan may involve court services, the department, and other parties, if necessary, for protective services.

(31) "~~Unfounded~~" means ~~that after an investigation, the investigating person has determined that the reported abuse, neglect, or exploitation has not occurred.~~

(32) "~~Unsubstantiated~~" means ~~that after an investigation, the investigator was unable to determine by a preponderance of the evidence that the reported abuse, neglect, or exploitation has occurred.~~

(33)(32) (a) "Withholding of medically indicated treatment" means the failure to respond to an infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication, that, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting the conditions.

(b) The term does not include the failure to provide treatment, other than appropriate nutrition, hydration, or medication, to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of treatment would:

(A) merely prolong dying;

(B) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

(C) otherwise be futile in terms of the survival of the infant; or

(iii) the provision of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane. For purposes of this subsection ~~(33)~~ (32), "infant" means an infant less than 1 year of age or an infant 1 year of age or older who has been continuously hospitalized since birth, who was born extremely prematurely, or who has a long-term disability. The reference to less than 1 year of age may not be construed to imply that treatment should be changed or discontinued when an infant reaches 1 year of age or to affect or limit any existing protections available under state laws regarding medical neglect of children 1 year of age or older.

(34)(33) "Youth in need of care" means a youth who has been adjudicated or determined, after a hearing, to be or to have been abused, neglected, or abandoned."

Section 2. Section 41-3-202, MCA, is amended to read:

"41-3-202. Action on reporting. (1) Upon receipt of a report that a child is or has been abused or neglected, the department shall promptly assess the information contained in the report and make a determination regarding the level of response required and the timeframe within which action must be initiated. If the department determines that an investigation *and a safety and risk assessment is* are required, a social worker, ~~the county attorney, or a peace officer~~ shall promptly conduct a thorough investigation into the circumstances surrounding the allegations of abuse or neglect of the child *and perform a safety and risk assessment to determine whether the living arrangement presents an unsafe environment for the child.* The ~~investigation~~ *safety and risk assessment* may include an investigation at the home of the child involved, the child's school or day-care facility, or any other place where the child is present and into all other nonfinancial matters that in the discretion of the investigator are relevant to the ~~investigation~~ *safety and risk assessment.* In

conducting an investigation a safety and risk assessment under this section, a social worker may not inquire into the financial status of the child's family or of any other person responsible for the child's care, except as necessary to ascertain eligibility for state or federal assistance programs or to comply with the provisions of 41-3-446.

(2) An initial investigation of alleged abuse or neglect may be conducted when an anonymous report is received. However, *if the initial investigation must does not* within 48 hours result in the development of independent, corroborative, and attributable information *indicating that there exists a current risk of physical or psychological harm to the child, in order for the investigation to continue. Without the development of independent, corroborative, and attributable information*, a child may not be removed from the *home living arrangement. If independent, corroborative, and attributable information indicating an ongoing risk results from the initial investigation, the department shall then conduct a safety and risk assessment.*

(3) The social worker is responsible for ~~assessing the family and planning for the child conducting the safety and risk assessment.~~ If the child is treated at a medical facility, the social worker, county attorney, or peace officer, ~~county attorney, or peace officer~~, consistent with reasonable medical practice, has the right of access to the child for interviews, photographs, and securing physical evidence and has the right of access to relevant hospital and medical records pertaining to the child. If an interview of the child is considered necessary, the social worker, county attorney, or peace officer may conduct an interview of the child. The interview may be conducted in the presence of the parent or guardian or an employee of the school or day-care facility attended by the child.

(4) Subject to 41-3-205(3), if the child's interview is audiotaped or videotaped, an unedited audiotape or videotape with audio track must be made available, upon request, for unencumbered review by the family.

(5) (a) If from the ~~investigation safety and risk assessment~~ the department has reasonable cause to suspect that the ~~child suffered abuse or neglect~~ *child is suffering abuse or neglect*, the department may provide emergency protective services to the child, pursuant to 41-3-301, or voluntary protective services pursuant to 41-3-302, and may provide protective services to any other child under the same care. The department shall:

(i) after interviewing the parent or guardian, if reasonably available, document ~~its determination regarding abuse or neglect of a child the determinations of the safety and risk assessment~~; and

(ii) notify the child's family of ~~its investigation and determination the determinations of the safety and risk assessment~~, unless the notification can reasonably be expected to result in harm to the child or other person.

(b) ~~If from the investigation it is determined that the child has not suffered abuse or neglect and the initial report is determined to be unfounded, the department and the social worker, county attorney, or peace officer who conducted the investigation into the circumstances surrounding the allegations of abuse or neglect shall destroy all of their records concerning the report and the investigation. The destruction must be completed within 30 days of the determination that the child has not suffered abuse or neglect.~~

(c) (i) If the report is unsubstantiated,

(b) *Except as provided in subsection (5)(c), the department shall destroy all safety and risk assessment determinations and associated the department and the social worker who conducted the investigation into the circumstances surrounding the initial allegations of abuse or neglect shall destroy all of the records, except for medical records, concerning the unsubstantiated report and the investigation within 30 days after the end of the 3-year period starting*

from the date the report was determined to be unsubstantiated, unless: of completion of the safety and risk assessment.

(A)(c) *Safety and risk assessment determinations and associated records may be maintained for a reasonable time as defined by department rule under the following circumstances:*

(i) *the safety and risk assessment determines that abuse or neglect occurred;*
(ii) *there had been a previous or there is a subsequent substantiated report and investigation resulting in a safety and risk assessment concerning the same person; or*

(B)(iii) *an order has been issued under this chapter by a court of competent jurisdiction adjudicating the child as a youth in need of care based on the circumstances surrounding the initial allegations.*

(ii) *A person who is the subject of an unsubstantiated report that was made prior to October 1, 2003, and after which a period of 3 years has elapsed without there being submitted a subsequent substantiated report or an order issued under this chapter based on the circumstances surrounding the initial allegations may request that the department destroy all of the records concerning the unsubstantiated report as provided in subsection (5)(c)(i).*

(6) The investigating social worker, within 60 days of commencing an investigation, shall also furnish a written report safety and risk assessment to the department and, upon request, to the family. Subject to time periods set forth in subsections (5)(b) and (5)(c), the department shall maintain a record system documenting investigations and determinations of child abuse and neglect cases safety and risk assessment determinations.

(7) Any person reporting abuse or neglect that involves acts or omissions on the part of a public or private residential institution, home, facility, or agency is responsible for ensuring that the report is made to the department.

(8) The department shall, upon request from any reporter of alleged child abuse or neglect, verify whether the report has been received, describe the level of response and timeframe for action that the department has assigned to the report, and confirm that it is being acted upon."

Section 3. Section 41-3-203, MCA, is amended to read:

"41-3-203. Immunity from liability. (1) Anyone investigating or reporting any incident of child abuse or neglect under 41-3-201 or 41-3-202, participating in resulting judicial proceedings, or furnishing hospital or medical records as required by 41-3-202 is immune from any liability, civil or criminal, that might otherwise be incurred or imposed unless the person was grossly negligent or acted in bad faith or with malicious purpose or provided information knowing the information to be false.

(2) A person who provides information pursuant to 41-3-201 that is substantiated by the department or a person who uses information received pursuant to 41-3-205 that is substantiated by the department to refuse to hire or to discharge a prospective or current employee, volunteer, or other person who through employment or volunteer activities may have unsupervised contact with children and who may pose a risk to children is immune from civil liability unless the person acted in bad faith or with malicious purpose."

Section 4. Section 41-3-204, MCA, is amended to read:

"41-3-204. Admissibility and preservation of evidence. (1) In any proceeding resulting from a report made pursuant to the provisions of this chapter or in any proceeding for which the report or its contents are sought to be introduced into evidence, the report or its contents or any other fact related to the report or to the condition of the child who is the subject of the report may not be excluded on the ground that the matter is or may be the subject of a privilege related to the examination or treatment of the child and granted

in Title 26, chapter 1, part 8, except the attorney-client privilege granted by 26-1-803.

(2) A person or official required to report under 41-3-201 may take or cause to be taken photographs of the area of trauma visible on a child who is the subject of a report. The cost of photographs taken under this section must be paid by the department.

(3) When a person required to report under 41-3-201 finds visible evidence that a child has suffered abuse or neglect, the person shall include in the report either a written description or photographs of the evidence.

(4) A physician, either in the course of providing medical care to a minor or after consultation with child protective services, the county attorney, or a law enforcement officer, may require x-rays to be taken when, in the physician's professional opinion, there is a need for radiological evidence of suspected abuse or neglect. X-rays may be taken under this section without the permission of the parent or guardian. The cost of the x-rays ordered and taken under this section must be paid by the county child protective service agency.

(5) All written, photographic, or radiological evidence gathered under this section must be sent to the local affiliate of the department at the time that the written confirmation report is sent or as soon after the report is sent as is possible. ~~If a confirmation report is not made, the evidence and the initial report must be destroyed as provided in The initial report and associated evidence must be handled in accordance with 41-3-202."~~

Section 5. Section 41-3-205, MCA, is amended to read:

"41-3-205. Confidentiality – disclosure exceptions. (1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (9) and (10), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined to be detrimental to the child or harmful to another person who is a subject of information contained in the records, may be disclosed to the following persons or entities in this state and any other state or country:

(a) a department, agency, or organization, including a federal agency, military enclave, or Indian tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and that otherwise meets the disclosure criteria contained in this section;

(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records or to a person authorized by the department to receive relevant information for the purpose of determining the best interests of a child with respect to an adoptive placement;

(c) a health or mental health professional who is treating the family or child who is the subject of a report in the records;

(d) a parent, grandparent, aunt, uncle, brother, sister, guardian, mandatory reporter provided for in 41-3-201(2) and (5), or person designated by a parent or guardian of the child who is the subject of a report in the records or other

person responsible for the child's welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

(e) a child named in the records who was allegedly abused or neglected or the child's legal guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate appointed by the court to represent a child in a pending case;

(f) the state protection and advocacy program as authorized by 42 U.S.C. 15043(a)(2);

(g) approved foster and adoptive parents who are or may be providing care for a child;

(h) a person about whom a report has been made and that person's attorney, with respect to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any other person whose safety may be endangered;

(i) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of child abuse or neglect;

(j) a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

(k) the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family group decisionmaking meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

(l) the coroner or medical examiner when determining the cause of death of a child;

(m) a child fatality review team recognized by the department[, including the child abuse and neglect review commission established in 2-15-2019];

(n) a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

(o) a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection (3)(o) must be made in writing. Disclosure under this subsection (3)(o) is limited to information that indicates a risk to children, ~~persons with developmental disabilities, or older persons~~ posed by the person about whom the information is sought, as determined by the department.

(p) the news media, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

(q) an employee of the department or other state agency if disclosure of the records is necessary for administration of programs designed to benefit the child;

(r) an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;

(s) a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;

(t) an attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;

(u) a foster care review committee established under 41-3-115 or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;

(v) a school employee participating in an interview of a child by a social worker, county attorney, or peace officer, as provided in 41-3-202;

(w) a member of a county interdisciplinary child information and school safety team formed under the provisions of 52-2-211;

(x) members of a local interagency staffing group provided for in 52-2-203;

(y) a member of a youth placement committee formed under the provisions of 41-5-121; or

(z) a principal of a school or other employee of the school district authorized by the trustees of the district to receive the information with respect to a student of the district who is a client of the department.

(4) (a) The records described in subsection (3) must be disclosed to a member of the United States congress or a member of the Montana legislature if all of the following requirements are met:

(i) the member receives a written inquiry regarding a child and whether the laws of the United States or the state of Montana that protect children from abuse or neglect are being complied with or whether the laws need to be changed to enhance protections for children;

(ii) the member submits a written request to the department requesting to review the records relating to the written inquiry. The member's request must include a copy of the written inquiry, the name of the child whose records are to be reviewed, and any other information that will assist the department in locating the records.

(iii) before reviewing the records, the member:

(A) signs a form that outlines the state and federal laws regarding confidentiality and the penalties for unauthorized release of the information; and

(B) receives from the department an orientation of the content and structure of the records.

(b) Records disclosed pursuant to subsection (4)(a) are confidential, must be made available for the member to view ~~at a location determined by the department~~ but may not be copied, recorded, photographed, or otherwise replicated by the member, and must remain solely in the department's possession. *The member must be allowed to view the records in the local office where the case is or was active.*

(c) Access to records requested pursuant to this subsection (4) is limited to 6 months from the date the written request to review records was received by the department.

(5) (a) The records described in subsection (3) must be promptly released to any of the following individuals upon a written request by the individual to the department or the department's designee:

(i) the attorney general;

(ii) a county attorney or deputy county attorney of the county in which the alleged abuse or neglect occurred;

(iii) a peace officer, as defined in 45-2-101, in the jurisdiction in which the alleged abuse or neglect occurred; or

(iv) the office of the child and family ombudsman.

(b) The records described in subsection (3) must be promptly disclosed by the department to an appropriate individual described in subsection (5)(a) or to

a county interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the department's receipt of a report indicating that any of the following has occurred:

- (i) the death of the child as a result of child abuse or neglect;
- (ii) a sexual offense, as defined in 46-23-502, against the child;
- (iii) exposure of the child to an actual and not a simulated violent offense as defined in 46-23-502; or
- (iv) child abuse or neglect, as defined in 41-3-102, due to exposure of the child to circumstances constituting the criminal manufacture or distribution of dangerous drugs.

(c) (i) The department shall promptly disclose the results of an investigation to an individual described in subsection (5)(a) or to a county interdisciplinary child information and school safety team established pursuant to 52-2-211 upon the determination that:

(A) there is reasonable cause to suspect that a child has been exposed to a Schedule I or Schedule II drug whose manufacture, sale, or possession is prohibited under state law; or

(B) a child has been exposed to drug paraphernalia used for the manufacture, sale, or possession of a Schedule I or Schedule II drug that is prohibited by state law.

(ii) For the purposes of this subsection (5)(c), exposure occurs when a child is caused or permitted to inhale, have contact with, or ingest a Schedule I or Schedule II drug that is prohibited by state law or have contact with drug paraphernalia as defined in 45-10-101.

(6) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.

(7) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.

(8) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.

(9) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsections (3)(a) and (5). However, this subsection may not be construed to compel a family member to keep the proceedings confidential.

(10) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (9) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(11) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(12) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to this section that are provided to the parent, grandparent, aunt, uncle, brother, sister, guardian, or parent's or guardian's attorney must be provided without cost. (Bracketed language in subsection (3)(m) terminates September 30, 2021--sec. 12, Ch. 235, L. 2017.)"

Section 6. Section 41-3-208, MCA, is amended to read:

“41-3-208. Rulemaking authority. (1) The department of public health and human services shall adopt rules to govern the procedures used by department personnel in preparing and processing reports and in ~~making~~ *conducting investigations and safety and risk assessments* authorized by this chapter.

(2) The department ~~may~~ *shall* adopt rules to govern the *retention period* and disclosure of *safety and risk assessments and associated* case records containing *information related to reports and investigations* of child abuse and neglect.

(3) The department shall adopt ~~a rule~~ *rules* specifying the procedure to be used for the release and disclosure of records as provided in 41-3-205(5). In adopting the rule, the department shall collaborate with the attorney general, the office of the child and family ombudsman, and appropriate county attorneys, law enforcement agencies, and county interdisciplinary child information and school safety teams established pursuant to 52-2-211.”

Section 7. Section 50-16-603, MCA, is amended to read:

“50-16-603. Confidentiality of health care information. Health care information in the possession of the department, a local board, a local health officer, or the entity’s authorized representatives may not be released except:

(1) for statistical purposes, if no identification of individuals can be made from the information released;

(2) when the health care information pertains to a person who has given written consent to the release and has specified the type of information to be released and the person or entity to whom it may be released;

(3) to medical personnel in a medical emergency as necessary to protect the health, life, or well-being of the named person;

(4) as allowed by Title 50, chapters 17 and 18;

(5) to another state or local public health agency, including those in other states, whenever necessary to continue health services to the named person or to undertake public health efforts to prevent or interrupt the transmission of a communicable disease or to alleviate and prevent injury caused by the release of biological, chemical, or radiological agents capable of causing imminent disability, death, or infection;

(6) in the case of a minor, as required by 41-3-201 or pursuant to an investigation *or a safety and risk assessment* under 41-3-202 or if the health care information is to be presented as evidence in a court proceeding involving child abuse pursuant to Title 41, chapter 3. Documents containing the information must be sealed by the court upon conclusion of the proceedings.

(7) to medical personnel, the department, a local health officer or board, or a district court when necessary to implement or enforce state statutes or state or local health rules concerning the prevention or control of diseases designated as reportable pursuant to 50-1-202, if the release does not conflict with any other provision contained in this part.”

Section 8. Effective date. [This act] is effective October 1, 2019.

Section 9. Applicability. [This act] applies to all reports received on or after [the effective date of this act].

Approved May 8, 2019

CHAPTER NO. 383

[HB 507]

AN ACT REVISING PROPERTY TAXATION AND CLASSIFICATION OF QUALIFIED DATA CENTERS AND RELATED PROPERTY; REVISING THE DEFINITION OF A QUALIFIED DATA CENTER; AMENDING SECTION 15-6-162, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-6-162, MCA, is amended to read:

“15-6-162. Class seventeen property – description – taxable percentage. (1) Class seventeen property includes the land, improvements, furniture, fixtures, equipment, tools that are not exempt under 15-6-219, and supplies except those included in class five under 15-6-135 of a qualified data center.

(2) (a) “Qualified data center” means the land, improvements, and personal property of a facility designed or modified to house networked computers or equipment supporting computing, networking, or data storage that is:

(i) composed of one or more buildings under single ownership on contiguous parcels of land that consist of at least:

(i) 300,000 square feet, where the total cost of land, improvements, personal property, and software is at least \$150 million; ~~and~~

(ii) ~~commences with construction commencing after June 30, 2017; or~~

(ii) 25,000 square feet of new or expanded area, where the total cost of land, improvements, personal property, and software is at least \$50 million invested during a 48-month period with construction commencing after January 1, 2019.

(b) The term includes but is not limited to:

(i) cooling systems, cooling towers, and other temperature infrastructure;

(ii) power infrastructure for transformation, distribution, or management of electricity used for the maintenance and operation of the facility, such as exterior dedicated business-owned substations, backup power generation systems, battery systems, and related infrastructure; and

(iii) any other equipment necessary for the maintenance and operation of the facility.

(3) During construction, property not meeting the requirements of subsection (2) must be classified as class seventeen property if, prior to March 1 of the first tax year for which the classification will be applied, the taxpayer certifies to the department that the facility under construction will meet the requirements of subsection (2) within 2 years of the date of the certification.

(4) The taxable property of a qualified data center must be locally assessed.

(5) (a) Class seventeen property includes centrally assessed interstate or intrastate dedicated communications infrastructure that is owned or leased by the owner of a qualified data center and is composed of telecommunication or data lines, equipment, and services, including but not limited to copper or fiber optic lines or microwave, satellite, or other wireless communication systems.

(b) To qualify under this subsection (5), construction of the owned or leased interstate or intrastate communications infrastructure must commence after June 30, 2017, and before July 1, 2027, and must satisfy the criteria of this section.

(c) Dedicated communications infrastructure provided for in this subsection (5) is taxed at the rate provided for in subsection (6) for a period of 15 years from the time that construction commences. After the 15-year period, the

dedicated communications infrastructure is taxed as class thirteen property at the rate provided in 15-6-156.

(6) Class seventeen property is taxed at 0.9% of its market value.”

Section 2. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to property tax years beginning after December 31, 2018.

Approved May 8, 2019

CHAPTER NO. 384

[HB 543]

AN ACT REVISING MISDEMEANOR EXPUNGEMENT LAW; CLARIFYING THAT EXPUNGEMENT MAY COVER MULTIPLE MISDEMEANORS; CLARIFYING VENUE; REVISING NOTICE PROVISIONS; REVISING PRESUMPTION CRITERIA; SPECIFYING PROCEDURE; REVISING PROVISIONS FOR EXPUNGEMENT ORDERS; PROVIDING RULEMAKING AUTHORITY; AND REPEALING SECTION 46-18-1101, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 10] may be cited as the “Misdemeanor Expungement Clarification Act”.

Section 2. Definitions. As used in [sections 1 through 10], the following definitions apply:

(1) “Expunge” or “expungement” means to permanently destroy, delete, or erase a record of an offense from the criminal history record information system maintained by the department of justice in a manner that is appropriate for the record’s physical or electronic form.

(2) (a) “Record” means any:

(i) identifiable description, notation, or photograph of an arrest and detention;

(ii) complaint, indictment, or information or any disposition arising from a complaint, indictment, or information;

(iii) sentence;

(iv) correctional status;

(v) release; or

(vi) court document or filing.

(b) The term does not include a fingerprint record or data that may be maintained for investigative purposes.

Section 3. Eligibility for misdemeanor expungement. (1) A person convicted of one or more misdemeanor offenses, whether in one court or multiple courts and whether in one case or multiple cases, and who has not had the person’s records expunged under [sections 1 through 10] previously, may petition a district court for an order requiring the expungement of all records of arrest, investigation, and detention, if any, and any court proceedings that may have been held related to the misdemeanor offense or offenses.

(2) A person may petition for expungement pursuant to [sections 1 through 10] no more than one time during the person’s life.

(3) A person submitting a petition for expungement under [sections 1 through 10] must be fingerprinted for purposes of validating the person's identity.

Section 4. Venue. A person may file a petition for expungement in the district court of a judicial district in which the person was convicted of a misdemeanor for which expungement is sought.

Section 5. Notice. (1) A person seeking expungement shall serve a copy of the petition for expungement to every prosecution office that prosecuted an offense for which expungement is being requested.

(2) If a victim of an offense subject to a requested expungement exists, the prosecution office responsible for the conviction for which expungement is being requested shall attempt to notify the victim of the offense within 14 days of receiving the petition for expungement and shall document the attempt. The notification must include that the victim has the right to respond to the expungement request and must inform the victim of any dates scheduled for court hearings.

Section 6. When expungement presumed. Expungement is presumed if the person requesting expungement is not currently being detained for the commission of an offense, is not charged with the commission of an offense, and does not have charges pending for the commission of a new offense, as verified by the prosecution office responsible for a conviction for which expungement is being requested, and:

(1) the person has not been convicted of any offense in this state, another state, or federal court for a period of 5 years since the person completed the sentencing terms for the offense or offenses for which expungement is being requested, including payment of any financial obligations or successful completion of court-ordered treatment; or

(2) the person has applied to a United States military academy, has applied to enlist in the armed forces or national guard, or is currently serving in the armed forces or national guard and is being held back in any way from enlisting or holding a certain position due to prior conviction.

Section 7. When expungement not presumed. (1) Expungement may not be presumed if the person seeking expungement has one or more convictions for assault under 45-5-201, partner or family member assault under 45-5-206, stalking under 45-5-220, sexual assault under 45-5-502, a violation of a protective order under 45-5-626, or driving under the influence of alcohol or drugs, however named, under Title 61, chapter 8, part 4, or any offense that carries a statutorily enhanced penalty as a result of the offender driving under the influence of alcohol or drugs.

(2) In making the determination of whether expungement should be granted, the district court must consider:

- (a) the age of the petitioner at the time the offense was committed;
- (b) the length of time between the offense and the request;
- (c) the rehabilitation of the petitioner;
- (d) the likelihood that the person will reoffend; and
- (e) any other factor the court considers relevant.

Section 8. Procedure. (1) The court must make its determination for an expungement on a preponderance of the evidence.

(2) A presumption in favor of expungement may be overcome upon a determination that the interests of public safety demand dismissal.

(3) If a representative of a prosecution office appears, the representative must be given an opportunity to respond.

(4) If a victim appears, the victim must be given an opportunity to respond.

(5) (a) The rules of evidence do not apply in an expungement hearing.

(b) The court may exclude irrelevant, immaterial, or unduly repetitious evidence.

Section 9. Expungement orders. (1) When multiple misdemeanor offenses are requested to be expunged, the court may order expungement of all, some, or none of the misdemeanor offenses.

(2) If an order of expungement is granted:

(a) the order must direct, for each offense being expunged, the arresting law enforcement agency, the prosecutor's office that prosecuted the offense, and the clerk of the court in which the person was sentenced to permanently seal all records of the arrest, investigation, and detention, if any, and any court proceedings that may have been held in the case in the possession of the recipient of the order within existing resources; and

(b) the person whose records are to be expunged shall send, for each offense being expunged, a copy of the order to the arresting law enforcement agency, the prosecutor's office that prosecuted the offense, the clerk of the court in which the person was sentenced, and the department of justice, along with the fingerprints taken pursuant to [section 3] for validating identity and a form prepared by the department of justice that contains identifying information about the petitioner.

(3) On receipt of an expungement order sent pursuant to subsection (2)(b), the department of justice shall, within existing department resources, expunge all records of arrest, investigation, detention, and court proceedings relating to the person's offenses addressed by the order.

Section 10. Rulemaking authority. For purposes of handling expunged records, the department of justice may adopt rules to implement the provisions of this section.

Section 11. Repealer. The following section of the Montana Code Annotated is repealed:

46-18-1101. Expungement of misdemeanor records -- petition to district court -- criteria for expungement -- definitions.

Section 12. Codification instruction. [Sections 1 through 10] are intended to be codified as an integral part of Title 46, chapter 18, part 11, and the provisions of Title 46, chapter 18, part 11, apply to [sections 1 through 10].

Section 13. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved May 8, 2019

CHAPTER NO. 385

[HB 583]

AN ACT REVISING REQUIREMENTS FOR MEASURING OUTCOMES IN THE CHILDREN'S MENTAL HEALTH SYSTEM; AMENDING SECTION 53-21-508, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-21-508, MCA, is amended to read:

"53-21-508. Monitoring of children's mental health outcomes -- report. (1) ~~The~~ *Each September and March, the* department shall ~~monitor the status of measure factors, specific to a point in time, for~~ children receiving targeted case management services in the state-funded children's mental health system ~~each fiscal year to determine whether, after receiving services,~~

~~the children are able to the effect of the services on the likelihood the children will remain at home, in school, and out of trouble.~~

(2) The department shall monitor the following factors to determine whether children receiving targeted case management services are able to ~~return to or~~ remain at home:

~~(a) whether a child remained in the home while receiving services or returned to the home after receiving out-of-home services;~~

~~(b)(a) the number of children placed in out-of-home mental health treatment, including the level and type of care and whether the treatment is provided in state or out of state; and~~

~~(c)(b) the number of children who were placed in or left a foster care setting, including kinship care, or a correctional setting; and~~

~~(d) the number and types of home and community-based services that children received.~~

(3) The department shall ~~work with schools to monitor, to the extent possible, monitor~~ the following factors related to the school success of a child receiving targeted case management services:

(a) the number of children ~~who did not return to or dropped out of school enrolled in and attending school; and~~

(b) the number of children who ~~did not advance~~ *advanced* to the next grade level ~~from the previous school year.~~

(4) The department shall ~~work with the juvenile justice system to monitor; to the extent possible; the following additional factors related to whether a child for children~~ receiving targeted case management services ~~has remained out of trouble after receiving mental health services:~~

(a) the number of children receiving treatment for substance use;

~~(b) the number of children screened for substance use disorders by the current case management provider;~~

~~(b)(c) the number of children referred to involved, formally or informally, with youth court; and~~

~~(c)(d) the number of children who completed in care or treatment related to suicide risk.~~

(5) The department shall report annually to the children, families, health, and human services interim committee and to the legislature as provided in 5-11-210 on the information required under this section.”

Section 2. Effective date. [This act] is effective July 1, 2019.

Approved May 8, 2019

CHAPTER NO. 386

[HB 584]

AN ACT RELATING TO CRYPTOCURRENCY; AMENDING EXEMPT TRANSACTIONS FROM CERTAIN SECURITIES LAW; ALLOWING CERTAIN DIGITAL TRANSACTIONS; AMENDING SECTION 30-10-105, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 30-10-105, MCA, is amended to read:

“30-10-105. Exempt transactions – rulemaking. Except as expressly provided in this section, 30-10-201 through 30-10-207 and 30-10-211 do not apply to the following transactions:

(1) a nonissuer isolated transaction, whether effected through a broker-dealer or not. A transaction is presumed to be isolated if it is one of not more than three transactions during the prior 12-month period.

(2) (a) a nonissuer distribution of an outstanding security by a broker-dealer registered pursuant to 30-10-201 if:

(i) quotations for the securities to be offered or sold or the securities issuable upon exercise of any warrant or right to purchase or subscribe to the securities are reported by the automated quotations system operated by the national association of securities dealers, inc., or by any other quotation system approved by the commissioner by rule; or

(ii) the security has a fixed maturity or a fixed interest or dividend provision and there has not been a default during the current fiscal year or within the 3 preceding fiscal years or if the issuer and any predecessors have been in existence for less than 3 years and there has not been a default in the payment of principal, interest, or dividends on the security.

(b) The commissioner may by order deny or revoke the exemption specified in subsection (2)(a) with respect to a specific security. Upon the entry of an order, the commissioner shall promptly notify all registered broker-dealers that it has been entered and give the reasons for the order and shall notify them that within 15 days of the receipt of a written request, the matter will be set for hearing. If a hearing is not requested and is not ordered by the commissioner, the order remains in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination. An order under this subsection may not operate retroactively. A person may not be considered to have violated parts 1 through 3 of this chapter by reason of any offer or sale effected after the entry of an order under this subsection if the person sustains the burden of proof that the person did not know and in the exercise of reasonable care could not have known of the order.

(3) a nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy, but the commissioner may require that the customer acknowledge upon a specified form that the sale was unsolicited and that a signed copy of each form be preserved by the broker-dealer for a specified period;

(4) a transaction between the issuer or other person on whose behalf the offering is made and an underwriter or between underwriters;

(5) a transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator in the performance of official duties;

(6) a transaction executed by a bona fide pledgee without any purpose of evading parts 1 through 3 of this chapter;

(7) an offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer or to a broker-dealer, whether the purchaser is acting for itself or in a fiduciary capacity;

(8) (a) a transaction pursuant to an offer made in this state directed by the offeror to not more than 10 persons, other than those designated in subsection (7), during any period of 12 consecutive months, if:

(i) the seller reasonably believes that all the buyers are purchasing for investment; and

(ii) a commission or other remuneration is not paid or given directly or indirectly for soliciting a prospective buyer. However, a commission may be

paid to a registered broker-dealer if the securities involved are registered with the United States securities and exchange commission under the federal Securities Act of 1933, as amended.

(b) a transaction pursuant to an offer made in this state directed by the offeror to not more than 25 persons, other than those designated in subsection (7), during any period of 12 consecutive months if:

(i) the seller reasonably believes that all the buyers are purchasing for investment;

(ii) a commission or other remuneration is not paid or given directly or indirectly for soliciting a prospective buyer; however, a commission may be paid to a registered broker-dealer if the securities involved are registered with the United States securities and exchange commission under the federal Securities Act of 1933, as amended; and

(iii) the offeror applies for and obtains the written approval of the commissioner prior to making any offers in this state and pays a filing fee that must accompany the application for approval. The commissioner may deny an application.

(c) a transaction pursuant to an offer made in this state by an offeror that is used in conjunction with the exemption found in subsection (8)(a) and the offeror has applied to the commissioner to use the exemption found in subsection (8)(b) in conjunction with or in addition to the exemption in subsection (8)(a), which the commissioner may allow if:

(i) the offeror has its corporate headquarters or principal place of business in this state;

(ii) the seller reasonably believes that all the buyers are purchasing for investment;

(iii) a commission or other remuneration is not paid or given directly or indirectly for soliciting a prospective buyer; however, a commission may be paid to a registered broker-dealer if the securities involved are registered with the United States securities and exchange commission under the federal Securities Act of 1933, as amended; and

(iv) the offeror applies for and obtains the written approval of the commissioner prior to making any offers in addition to the offers made pursuant to subsection (8)(a) and pays a filing fee that must accompany the application for approval. The commissioner may deny the application.

(d) For the purpose of the exemptions provided for in this subsection (8), an offer to sell is made in this state, whether or not the offeror or any of the offerees are then present in this state, if the offer either originates from this state or is directed by the offeror to this state and received at the place to which it is directed or at any post office in this state in the case of a mailed offer.

(9) an offer or sale of a preorganization certificate or subscription if:

(a) a commission or other remuneration is not paid or given directly or indirectly for soliciting a prospective subscriber;

(b) the number of subscribers does not exceed 25; and

(c) a payment is not made by a subscriber;

(10) a transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than 90 days of their issuance, if:

(a) a commission or other remuneration, other than a standby commission, is not paid or given directly or indirectly for soliciting any security holder in this state; or

(b) the issuer first files a notice specifying the terms of the offer and the commissioner does not by order disallow either subsection (10)(a) or the notice specifying the terms of the offer;

(11) an offer, but not a sale, of a security for which registration statements have been filed under both parts 1 through 3 of this chapter and the Securities Act of 1933 if a stop, refusal, denial, suspension, or revocation order is not in effect and a public proceeding or examination looking toward an order is not pending under either law;

(12) an offer, but not a sale, of a security for which a registration statement has been filed under parts 1 through 3 of this chapter and the commissioner does not disallow the offer in writing within 10 days of the filing;

(13) the issuance of a security dividend, whether the corporation distributing the dividend is the issuer of the security or not, if nothing of value is given by security holders for the distribution other than the surrender of a right to a cash dividend when the security holder can elect to take a dividend in cash or in securities;

(14) a transaction incident to a right of conversion, a statutory or judicially approved reclassification, or a recapitalization, reorganization, quasi-reorganization, stock split, reverse stock split, merger, consolidation, or sale of assets;

(15) a transaction in compliance with rules that the commissioner may adopt to serve the purposes of 30-10-102. The commissioner may require that 30-10-201 through 30-10-207 and 30-10-211 apply to any transactional exemptions adopted by rule.

(16) the sale of a commodity investment contract traded on a commodities exchange recognized by the commissioner at the time of sale;

(17) a transaction within the exclusive jurisdiction of the commodity futures trading commission as granted under the Commodity Exchange Act;

(18) a transaction that:

(a) involves the purchase of one or more precious metals;

(b) requires, and under which the purchaser receives within 7 calendar days after payment in good funds of any portion of the purchase price, physical delivery of the quantity of the precious metals purchased. For the purposes of this subsection, physical delivery is considered to have occurred if, within the 7-day period, the quantity of precious metals, whether in specifically segregated or fungible bulk, purchased by the payment is delivered into the possession of a depository, other than the seller, that:

(i) (A) is a financial institution, meaning a bank, savings institution, or trust company organized under or supervised pursuant to the laws of the United States or of this state;

(B) is a depository the warehouse receipts of which are recognized for delivery purposes for any commodity on a contract market designated by the commodity futures trading commission; or

(C) is a storage facility licensed by the United States or any agency of the United States; and

(ii) issues, and the purchaser receives, a certificate, document of title, confirmation, or other instrument evidencing that the quantity of precious metals has been delivered to the depository and is being and will continue to be held on the purchaser's behalf, free and clear of all liens and encumbrances other than:

(A) liens of the purchaser;

(B) tax liens;

(C) liens agreed to by the purchaser; or

(D) liens of the depository for fees and expenses that previously have been disclosed to the purchaser.

(c) requires the quantity of precious metals purchased and delivered into the possession of a depository, as provided in subsection (18)(b), to be physically

located within Montana at all times after the 7-day delivery period provided in subsection (18)(b), and the precious metals are in fact physically located within Montana at all times after that delivery period;

(19) a transaction involving a commodity investment contract solely between persons engaged in producing, processing, using commercially, or handling as merchants each commodity subject to the contract or any byproduct of the commodity;

(20) an offer or sale of a security to an employee of the issuer, pursuant to an employee stock ownership plan qualified under section 401 of the Internal Revenue Code;

(21) (a) an offer or sale of securities by a cooperative association organized under the provisions of Title 35, chapter 15 or 17, or under the laws of another state that are substantially the same as the provisions of Title 35, chapter 15 or 17, if the offer and sale are only to members of the cooperative association or the purchase of the securities is necessary or incidental to establishing membership in the cooperative association;

(b) a cooperative organized under the laws of another state may not take advantage of the exemption created by this subsection (21) unless, not less than 10 days before the issuance or delivery of the securities, the cooperative has furnished the commissioner with a general written description of the transaction and any other information the commissioner may require by rule or otherwise. The commissioner shall promulgate rules establishing a list of states whose laws are considered substantially the same as Title 35, chapter 15 or 17, for the purposes of this subsection (21).

(22) an offer or sale of securities in which:

(a) the offer or sale meets the following residency requirements:

(i) it is made in this state to residents of this state;

(ii) the issuer is a business entity formed under the laws of this state and registered with the Montana secretary of state;

(iii) prior to the offer or sale, the issuer has documentary evidence to establish a reasonable basis to believe the buyer is a resident of this state; and

(iv) the offer or sale meets the intrastate exemption requirements in section 3(a)(11) of the Securities Act of 1933, 15 U.S.C. 77c(a)(11), and 17 CFR 230.147;

(b) the offer or sale meets the following payment requirements:

(i) cash and other consideration received by the issuer for all securities transactions does not exceed \$1 million, less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance on this exemption;

(ii) the issuer does not accept more than \$10,000 from a buyer unless the buyer is an accredited investor under Rule 501 SEC Regulation D, 17 CFR 230.501;

(iii) the issuer reasonably believes that all buyers are purchasing for investment and not for sale in connection with a distribution of the security;

(iv) a commission or remuneration is not paid or given, directly or indirectly, for any person's participation in the offer or sale of securities for the issuer unless the person is a registered broker-dealer or agent under this chapter; and

(v) all funds received from buyers are deposited into a bank or depository institution authorized to do business in this state and used in accordance with representations made to investors;

(c) the issuer, within 10 days of any solicitation or within 15 days after the first sale of the security pursuant to this exemption, whichever occurs first, provides to the commissioner in a form prescribed by the commissioner notice that:

(i) specifies that the issuer is conducting an offering in reliance upon this exemption;

(ii) identifies the issuer;

(iii) lists all persons involved in the offer and sale of securities on behalf of the issuer;

(iv) identifies the bank or other depository institution where investor funds will be deposited; and

(v) includes payment of a filing fee;

(d) the issuer does not constitute any of the following:

(i) before or after the offer or sale, an investment company as defined in section 3 of the Investment Company Act of 1940, 15 U.S.C. 80a-3, or subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. 78m and 78o(d);

(ii) before or after the offer or sale, an investment adviser as defined in this chapter or a person who otherwise provides investment advice as a service or for a fee;

(iii) before the offer or sale, an individual who has been convicted within 10 years before the sale, or 5 years in the case of issuers, their predecessors, and affiliated issuers, of a felony or misdemeanor;

(iv) before or after the offer or sale, a person subject to a final order that bars the person from the business of securities, insurance, or banking, issued by any of the following:

(A) a state or federal securities regulator or similar entity;

(B) a state or federal banking authority or similar entity;

(C) a state insurance commission or similar entity;

(e) the offer or sale:

(i) can be used in conjunction with any other exemption under this chapter except the exemptions for institutional investors under subsection (8) and for controlling persons of the issuer. Sales toward controlling persons do not count toward the limitation in subsection (22)(b).

(ii) is not available if the issuer or any of its officers, controlling persons, or promoters is disqualified under any part of this chapter;

(f) prior to the sale, the issuer informed all purchasers that the securities have not been registered under this chapter and cannot be resold unless the securities are registered or qualify for an exemption from registration; and

(g) the offer or sale is not:

(i) an offering proposing to issue stock or other equity interest in a development stage company without a specific business plan or purpose;

(ii) an offering in which the issuer has indicated that its business is to enlarge in a merger or acquisition with an unidentified company or companies or other unidentified entities or persons; or

(iii) an offering without an allocation of proceeds to sufficiently identifiable properties or objectives.

(23) (a) a utility token transaction that meets the following requirements:

(i) the purpose of the utility token is primarily consumptive;

(ii) the issuer of the utility token markets the utility token for a consumptive purpose and does not market the utility token to be used for a speculative or investment purpose;

(iii) the issuer of the utility token files a notice of intent to sell utility tokens with the securities commissioner in a form prescribed by the commissioner. If the information contained on the notice required in this section becomes inaccurate in any material respect for any reason, the issuer shall file an amendment to the notice in writing with the securities commissioner within 30 days.

(iv) either the utility token is available at the time of sale, or all of the following are met:

(A) the consumptive purpose of the utility token is available within 180 days after the time of sale or transfer of the utility token;

(B) the initial buyer is prohibited from reselling or transferring the utility token until the consumptive purpose of the utility token is available; and

(C) the initial buyer provides a knowing and clear acknowledgment that the initial buyer is purchasing the utility token with the primary intent to use the utility token for a consumptive purpose and not for a speculative or investment purpose.

(b) Except as provided in this subsection (23), the securities commissioner may enter into agreements with federal, state, or foreign regulators to allow utility tokens issued, purchased, sold, or transferred in this state to be issued, purchased, sold, or transferred in another jurisdiction, and any utility tokens issued, purchased, sold, or transferred in another jurisdiction to be issued, purchased, sold, or transferred in this state.

(c) As used in this subsection (23), the following definitions apply:

(i) "Consumptive purpose" means to provide or receive goods, services, or content including access to goods, services, or content.

(ii) "Utility token" means a digital unit that is:

(A) created:

(I) in response to the verification or collection of a specified number of transactions relating to a digital ledger or database;

(II) by deploying computer code to a blockchain network that allows for the creation of digital tokens or other units; or

(III) using any combination of the methods specified in subsections (23)(c)(ii)(A)(I) or (23)(c)(ii)(A)(II);

(B) recorded in a digital ledger or database that is chronological, consensus-based, decentralized, and mathematically verified in nature, especially relating to the supply of units and their distribution;

(C) capable of being exchanged or transferred between persons without an intermediary or custodian; and

(D) issued to allow the holder of the digital unit access to a good or service delivered by the issuer without vesting the holder with any ownership interest or equity interest in the issuer."

Section 2. Effective date. [This act] is effective July 1, 2019.

Section 3. Termination. [This act] terminates September 30, 2023.

Approved May 8, 2019

CHAPTER NO. 387

[HB 590]

AN ACT REVISING CRIMINAL PROCEDURE LAWS RELATED TO SEXUAL OFFENSES; PROVIDING PROCEDURE FOR A DEFENDANT TO MOVE FOR AN INTERVIEW OF A CHILD VICTIM OF A SEXUAL OFFENSE; PROVIDING FOR A HEARING; PROVIDING FOR REASONABLE ACCOMMODATIONS FOR THE CHILD; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Interview of child under age 16. (1) A defendant may not interview a child under the age of 16 who alleges to be the victim of sexual abuse as provided in 45-5-502, 45-5-503, 45-5-504, 45-5-507, 45-5-508, or 45-5-625, or an immediate family member of the child who is also under the age of 16,

except by an order of the court upon a motion showing that the defendant has exceptional circumstances that necessitate interviewing the child victim.

(2) Upon a motion under subsection (1), the court may, in its discretion, order an interview. If the court orders an interview, the court shall list the reasons for and scope of the interview and, if requested, provide any reasonable accommodations for the child victim for the interview.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 46, chapter 15, part 3, and the provisions of Title 46, chapter 15, part 3, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2019

CHAPTER NO. 388

[HB 601]

AN ACT DIRECTING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO TRANSFER FUNDS BETWEEN BUDGET PROGRAMS; REQUIRING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO USE THE FUNDS TO CREATE AND ADMINISTER A SCHOOL SAFETY PROFESSIONAL DEVELOPMENT GRANT FUND; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Transfer of funds – grant program. (1) The superintendent of public instruction is directed to transfer \$100,000 out of the state level activities budget (program 06) to the local education activities budget (program 09) of the superintendent's budget for fiscal years 2020 and 2021.

(2) (a) The superintendent of public instruction is directed to use the \$100,000 of funds transferred pursuant to subsection (1) to create and administer a school safety professional development grant program.

(b) The superintendent of public instruction shall offer grants to school districts to provide professional development on topics related to school safety. Acceptable uses for the school safety professional development grants include but are not limited to individual training of school employees, improvement of facilities, and programs that promote the protection of students from violence, theft, bullying, exposure to weapons, and the sale or use of illegal substances on school grounds.

(3) For purposes of this section, "school safety" means keeping students safe from violence, bullying, harassment, and substance use at schools and school-related activities.

Section 2. Coordination instruction. If both House Bill No. 2 and [this act] are passed and approved and House Bill No. 2 includes a transfer for the superintendent of public instruction to create and administer a school safety professional grant program, then:

(1) [section 1(1) of this act] is void; and

(2) in [section 1(2)(a) of this act], the reference to "subsection (1)" must be changed to "House Bill No. 2".

Section 3. Effective date. [This act] is effective July 1, 2019.

Approved May 8, 2019

CHAPTER NO. 389

[HB 615]

AN ACT MODERNIZING CLAIM AND DELIVERY LAW; CONFIRMING THAT THE UNIFORM COMMERCIAL CODE REVISED ARTICLE NINE REMEDIES ARE AVAILABLE IN A CLAIM AND DELIVERY ACTION; AND AMENDING SECTIONS 27-17-205 AND 27-17-304, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 and 2] may be cited as the “Claim Delivery Modernization Act”.

Section 2. Remedies following delivery. (1) When, as provided for in this chapter, the sheriff has taken property that is subject to a security interest arising under Title 30, chapter 9A, part 2, granted to plaintiff by defendant and return of the property is not required within 5 days after the taking and serving notice on the defendant, the sheriff shall deliver the property to the plaintiff.

(2) Upon delivery of the property by the sheriff, the plaintiff may then exercise the remedies available under Title 30, chapter 9A, part 6.

Section 3. Section 27-17-205, MCA, is amended to read:

“27-17-205. Plaintiffs undertaking – service and execution by sheriff. Upon receipt of the affidavit and notice with a written undertaking, executed by two or more sufficient sureties approved by the sheriff, ~~to the effect that they are bound to the defendant or a letter of credit issued by a regulated lender as defined in 31-1-111,~~ in double the value of the property, as stated in the affidavit for the prosecution of the action, and for the return of the property to the defendant, if return of the property is adjudged, and for the payment to the defendant of the sum that may from any cause be recovered against the plaintiff, the sheriff shall take the property described in the affidavit, if it is in the possession of the defendant or the defendant’s agent, and retain it in the sheriff’s custody *or deliver it to the plaintiff as provided in [section 2].* The sheriff shall also, without delay, serve on the defendant a copy of the affidavit, notice, and undertaking by delivering the papers to the defendant personally, if the defendant can be found, or to the defendant’s agent from whose possession the property is taken or, if neither can be found, by leaving the papers at the usual place of abode of either with some person of suitable age and discretion or, if neither have any known place of abode, by putting the papers in the nearest post office, directed to the defendant.”

Section 4. Section 27-17-304, MCA, is amended to read:

“27-17-304. When defendant may require return of property – undertaking. At any time before the delivery of the property to the plaintiff, the defendant may, if the defendant does not take exception to the sureties of the plaintiff, require the return of the property upon giving to the sheriff a written undertaking, executed by two or more sufficient sureties, ~~to the effect that they are bound or a letter of credit issued by a regulated lender as defined in 31-1-111,~~ in double the value of the property, as stated in the affidavit of the plaintiff, for the delivery of the property to the plaintiff, if the delivery is adjudged, and for the payment to the plaintiff of the sum that may, for any cause, be recovered against the defendant.”

Section 5. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 27, chapter 17, part 3, and the provisions of Title 27, chapter 17, part 3, apply to [section 2].

Section 6. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Approved May 8, 2019

CHAPTER NO. 390

[HB 626]

AN ACT REVISING SOCIAL WORK LICENSURE LAWS TO INCLUDE TWO NEW LEVELS OF LICENSURE; PROVIDING LICENSING REQUIREMENTS AND EXEMPTIONS; REQUIRING RULEMAKING BY THE BOARD OF BEHAVIORAL HEALTH; AMENDING SECTIONS 37-22-102, 37-22-301, AND 37-22-313, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Levels of social worker licensure. Three levels of social worker licensure are available under this chapter:

- (1) a licensed baccalaureate social worker, who meets the requirements of [section 2];
- (2) a master's-level social worker, also known as a licensed master's social worker, who meets the requirements of [section 3]; and
- (3) a licensed clinical social worker, who meets the requirements of 37-22-301.

Section 2. Licensed baccalaureate social worker requirements -- exemption -- rulemaking. (1) An applicant to be a licensed baccalaureate social worker:

(a) must have a bachelor's degree in social work from a program accredited by the council on social work education or a program approved by the board by rule; and

(b) must have registered as a social worker licensure candidate, as provided in 37-22-313, and completed supervised work experience as specified in the training and supervision plan submitted to the board and approved by the board. Some of the required hours must be in direct client contact.

(2) After completing the required supervised work experience as a social worker licensure candidate, the applicant shall:

(a) provide the board with three letters of reference from professionals licensed by the board or academic professors who have knowledge of the applicant's professional performance;

(b) satisfactorily complete an examination prescribed by the board by rule. An applicant who fails the examination may reapply to take the examination and may continue as a social worker licensure candidate, subject to the terms set by the board.

(c) submit a completed application required by the board and the application fee prescribed by the board; and

(d) submit fingerprints for the purpose of fingerprint checks as provided in 37-1-307. The board may require a criminal background check of applicants and determine the suitability for licensure as provided in 37-1-201 through 37-1-205 and 37-1-307.

(3) A licensed baccalaureate social worker:

(a) is subject to the social work ethical standards adopted under 37-22-201;

(b) may engage in social work activities as provided in 33-22-102(5)(b) through (5)(g);

(c) may engage in practice, as defined by the board, upon receiving a license; and

(d) may use the initials "LBSW" for "licensed baccalaureate social worker".

(4) An applicant is exempt from the examination requirement in subsection (2)(c) if the applicant:

(a) proves to the board that the applicant is licensed, certified, or registered in a state or territory of the United States under laws that have substantially the same requirements as this chapter; and

(b) has passed an examination similar to that required by the board.

(5) Individuals who demonstrate to the board on or before May 1, 2021, that they meet the applicable work and education experience as provided in subsection (1) are exempt from examination procedures provided in subsection (2)(b) and may be licensed under this section.

(6) The board may require a criminal background check of applicants and shall adopt rules to implement this section.

Section 3. Licensed master's social worker requirements -- rulemaking -- exemption. (1) An applicant to be a licensed master's social worker:

(a) must have a master's degree in social work from a program accredited by the council on social work education or a program approved by the board by rule; and

(b) must have registered as a social worker licensure candidate, as provided in 37-22-313, and completed supervised work experience as specified in the training and supervision plan submitted to the board and approved by the board. Some of the required hours must be in direct client contact.

(2) After completing the required supervised work experience as a social worker licensure candidate, the applicant shall:

(a) provide the board with three letters of reference from professionals licensed by the board or academic professors who have knowledge of the applicant's professional performance;

(b) satisfactorily complete an examination prescribed by the board by rule. An applicant who fails the examination may reapply to take the examination and may continue as a social worker licensure candidate, subject to the terms set by the board.

(c) submit a completed application required by the board and the application fee prescribed by the board by rule; and

(d) submit fingerprints for the purpose of fingerprint checks as provided in 37-1-307. The board may require a criminal background check of applicants and determine the suitability for licensure as provided in 37-1-201 through 37-1-205 and 37-1-307.

(3) A licensed master's social worker:

(a) is subject to the social work ethical standards adopted under 37-22-201;

(b) may engage in social work activities as provided in 33-22-102(5)(b) through (5)(g);

(c) may engage in practice, as defined by the board, upon receiving a license; and

(d) may use the initials "LMSW" for "licensed master's social worker".

(4) An applicant is exempt from the examination requirement in subsection (2)(c) if the applicant:

(a) proves to the board that the applicant is licensed, certified, or registered in a state or territory of the United States under laws that have substantially the same requirements as this chapter; and

(b) has passed an examination similar to that required by the board.

(5) Individuals who demonstrate to the board on or before May 1, 2021, that they meet the applicable work and education experience as provided in subsection (1) are exempt from examination procedures provided in subsection (2)(b) and may be licensed under this section.

(6) The board may require a criminal background check of applicants and shall adopt rules to implement this section.

Section 4. Section 37-22-102, MCA, is amended to read:

“37-22-102. Definitions. As used in this chapter, the following definitions apply:

(1) “Board” means the board of behavioral health established in 2-15-1744.

(2) “Department” means the department of labor and industry.

(3) “Licensee” means a person licensed under this chapter *as a licensed baccalaureate social worker, a licensed master’s social worker, or a licensed clinical social worker.*

(4) “Psychotherapy” means the use of psychosocial methods within a professional relationship to assist a person to achieve a better psychosocial adaptation and to modify internal and external conditions that affect individuals, groups, or families in respect to behavior, emotions, and thinking concerning their interpersonal processes.

(5) “Social work” means the professional practice directed toward helping people achieve more adequate, satisfying, and productive social adjustments. The practice of social work involves special knowledge of social resources, human capabilities, and the roles that individual motivation and social influences play in determining behavior and involves diagnoses and the application of social work techniques, including:

(a) counseling and using psychotherapy with individuals, families, or groups;

(b) providing information and referral services;

(c) providing, arranging, or supervising the provision of social services;

(d) explaining and interpreting the psychosocial aspects in the situations of individuals, families, or groups;

(e) helping communities to organize to provide or improve social and health services;

(f) research or teaching related to social work; and

(g) administering, evaluating, and assessing tests if the licensee is qualified to administer the test and make the evaluation and assessment.

(6) “Social worker licensure candidate” means a person who is registered pursuant to 37-22-313 to engage in social work and earn supervised work experience necessary for licensure.”

Section 5. Section 37-22-301, MCA, is amended to read:

“37-22-301. License requirements – rulemaking – exemptions.

(1) ~~A license~~ *An applicant shall satisfactorily complete an examination prescribed by the board.*

~~(2) Before an applicant may take the examination, the applicant shall present three letters of reference from licensed social workers, licensed clinical social workers, psychiatrists, or psychologists who have knowledge of the applicant’s professional performance and shall demonstrate to the board that the applicant: to be a licensed clinical social worker:~~

~~(a) has must have a doctorate or master’s degree in social work from a program accredited by the council on social work education or approved by the board; and~~

~~(b) has must have registered as a social worker licensure candidate, as provided in 37-22-313, and completed at least 24 months of supervised post master’s degree work experience in psychotherapy, which must have included~~

3,000 hours of social work experience, of which at least 1,500 hours were in direct client contact, within the past 5 years; ~~and.~~

(2) *After completing the required supervised work experience as a social worker licensure candidate, the applicant shall:*

(a) *provide the board with three letters of reference from professionals licensed by the board or academic professors who have knowledge of the applicant's professional performance;*

(b) *satisfactorily complete an examination prescribed by the board. An applicant who fails the examination may reapply to take the examination and may continue as a social worker licensure candidate, subject to the terms set by the board.*

(c) *submit a completed application required by the board and the application fee prescribed by the board.*

~~(e)(3) A licensed clinical social worker:~~

~~(a) abides by~~ is subject to the social work ethical standards adopted under 37-22-201.;

(b) *may engage in independent practice, as defined by the board, upon receiving a license; and*

(c) *may use the initials "LSW" or "LCSW" for "licensed social worker" or "licensed clinical social worker".*

~~(3) An applicant who fails the examination may reapply to take the examination.~~

(4) An applicant is exempt from the examination requirement *in subsection (2)(b)* if the applicant:

(a) *proves to* ~~satisfies~~ the board that the applicant is licensed, certified, or registered ~~under the laws of~~ in a state or territory of the United States ~~that imposes under laws that have~~ substantially the same requirements as this chapter; and

(b) ~~that the applicant~~ has passed an examination similar to that required by the board.

(5) As a prerequisite to the issuance of a license, the board shall require the applicant to submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307. *The board may require a criminal background check of applicants and determine the suitability for licensure as provided in 37-1-201 through 37-1-205 and 37-1-307.*

~~(6) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust, and if the board determines that the applicant is not, the license may be denied.~~

~~(6) The board shall adopt rules to implement this section."~~

Section 6. Section 37-22-313, MCA, is amended to read:

"37-22-313. Social worker licensure candidate -- registration requirements -- renewal -- standards. (1) A person who has completed the education required for licensure *under 37-22-301, [section 2], or [section 3]* but who has not completed the supervised work experience required for licensure shall register as a social worker licensure candidate in order to engage in social work and earn supervised work experience hours in this state.

(2) To register, the person shall submit:

(a) the application and fee required by the board;

(b) proof of completion of the education requirement;

(c) fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307;

(d) proof of good moral character; and
(e) a training and supervision plan that meets the requirements set by the board.

(3) Upon satisfaction of the requirements of subsection (2) and approval by the board, a person may engage in social work under the conditions set by the board and ~~shall~~ use the title of “~~clinical~~ social worker licensure candidate” *that is appropriate to the applicant’s proposed level of licensure*.

(4) A person shall register annually as a social worker licensure candidate. The board may limit the number of years that a person may act as a social worker licensure candidate.

(5) A social worker licensure candidate shall conform to the standards of conduct applicable to all licensees.

(6) Unprofessional conduct or failure to satisfy the training and supervision requirements and other conditions set by the board may result in disciplinary action, sanctions, or other restriction of a person’s authorization to act as a social worker licensure candidate.

(7) The board may:

(a) deny a license or issue a probationary license to an applicant for licensure based on the applicant’s conduct as a social worker licensure candidate; *and:*

(b) *determine the suitability for licensure as provided in 37-1-201 through 37-1-205 and 37-1-307.”*

Section 7. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 37, chapter 22, part 1, and the provisions of Title 37, chapter 22, part 1, apply to [section 1].

(2) [Sections 2 and 3] are intended to be codified as an integral part of Title 37, chapter 22, part 3, and the provisions of Title 37, chapter 22, part 3, apply to [sections 2 and 3].

Section 8. Effective date. [This act] is effective January 1, 2020.

Approved May 8, 2019

CHAPTER NO. 391

[HB 638]

AN ACT INCREASING THE SPECIAL EDUCATION ALLOWABLE COST PAYMENT; PROVIDING APPROPRIATIONS; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriations. (1) The following money is appropriated from the general fund to the office of public instruction for the purpose of increasing the special education allowable cost payment:

Fiscal year 2020 \$393,957

Fiscal year 2021 \$1,193,409

(2) The following money is appropriated from the general fund to the office of public instruction for adjustments to the state’s funding of guaranteed tax base aid related to the special education allowable cost payment:

Fiscal year 2020 \$66,123

Fiscal year 2021 \$206,730

(3) The legislature intends that the increases to the appropriations in fiscal year 2021 be considered as part of the ongoing base for the next legislative session.

Section 2. Effective date. [This act] is effective July 1, 2019.

Approved May 8, 2019

CHAPTER NO. 392

[HB 662]

AN ACT IMPLEMENTING THE PROVISIONS OF THE GENERAL APPROPRIATIONS ACT FOR SECTION E; REVISING ALLOCATION OF APPROPRIATIONS FOR K-12 CAREER AND VOCATIONAL/TECHNICAL EDUCATION; PROVIDING FUND TRANSFERS; AMENDING SECTION 20-7-305, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Fund transfer. By August 15, 2019, the state treasurer shall transfer \$100 from the general fund to the school facility and technology account established in 20-9-516.

Section 2. Section 20-7-305, MCA, is amended to read:

“20-7-305. Funding for secondary K-12 career and vocational/technical education programs – application – rules. (1) The superintendent of public instruction shall annually distribute money from the biennial appropriation for secondary K-12 career and vocational/technical education. The money must be allocated to:

(a) high school districts providing approved secondary K-12 career and vocational/technical education programs in accordance with ~~this section and 20-7-306 and this section;~~ and

(b) *career and technical student organizations for grants in accordance with 20-7-320.*

(2) A high school district providing secondary K-12 career and vocational/technical education programs shall apply to the superintendent of public instruction for funds available under ~~this section and 20-7-306 and this section.~~ The superintendent of public instruction shall by rule prescribe the method for distribution, the form of the application, budget procedures, and accounting rules for the funds. The superintendent of public instruction may prescribe other requirements for the receipt of funding consistent with Title 20, chapter 7, part 3.

(3) A secondary K-12 career and vocational/technical education program in a high school district may not be funded until that program has been offered by the school district for 1 school year.

(4) As used in ~~this section and 20-7-306 and this section~~ the term “school district” means a district organized for the purpose of providing educational services for grades 9 through 12, but the term does not include postsecondary vocational education centers.”

Section 3. Effective date. [This act] is effective July 1, 2019.

Approved May 8, 2019

CHAPTER NO. 393

[HB 669]

AN ACT IMPLEMENTING THE PROVISIONS OF THE GENERAL APPROPRIATIONS ACT; GENERALLY REVISING HEALTH CARE LAWS; CREATING STATE SPECIAL REVENUE ACCOUNTS; ALLOWING THE GOVERNOR TO AUTHORIZE A SUPPLEMENTAL APPROPRIATION TRANSFER FOR THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; REQUIRING THE GOVERNOR TO REPORT TO THE LEGISLATIVE FINANCE COMMITTEE; REQUIRING OPERATION OF THE

EASTERN MONTANA VETERANS' HOME AND THE SOUTHWESTERN MONTANA VETERANS' HOME BY PRIVATE VENDORS; PROVIDING FUNDING FOR 100 ADDITIONAL MEDICAID WAIVER SLOTS AT SENIOR AND LONG-TERM CARE FOR ELDERLY AND PHYSICALLY DISABLED PERSONS RECEIVING HOME AND COMMUNITY BASED SERVICES THROUGH THE BIG SKY WAIVER; TEMPORARILY REDUCING THE PHYSICIAN REIMBURSEMENT RATE; PROVIDING FOR FUND TRANSFERS; AMENDING SECTIONS 10-2-416, 17-7-301, 17-7-311, 52-3-115, 53-1-402, 53-6-125, AND 53-19-310, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Extended employment and targeted case management – state special revenue account. (1) There is an account in the state special revenue fund established in 17-2-102 to the credit of the department of public health and human services to be known as the targeted case management state special revenue account.

(2) The purpose of the account is to provide additional funding for extended employment and targeted case management services for adults and children with mental illness.

Section 2. Older Montanans trust state special revenue account. (1) There is an account in the state special revenue fund established in 17-2-102 to the credit of the department of public health and human services to be known as the older Montanans trust state special revenue account.

(2) The purpose of the account is to fund additional medicaid waiver slots at senior and long-term care for elderly and physically disabled persons receiving home and community-based services through the big sky waiver as follows:

- (a) 25 slots beginning July 1, 2019;
- (b) 25 slots beginning January 1, 2020;
- (c) 25 slots beginning July 1, 2020; and
- (d) 25 slots beginning January 1, 2021.

Section 3. Section 10-2-416, MCA, is amended to read:

“10-2-416. Pledge to continue operation and maintenance. Pursuant to 38 U.S.C. 8134 and 8135(a)(6), the state shall appropriate funds either from the general fund or from funds generated under 16-11-111 to the department of public health and human services for financial support necessary to provide for continued operation and maintenance of the state homes for veterans in eastern Montana and southwestern Montana. The department of public health and human services ~~may~~ *shall* contract with a private vendor to provide for the operation of the eastern Montana veterans' home and the southwestern Montana veterans' home and may charge the contract vendor a rental fee for the maintenance and upkeep of the facility.”

Section 4. Section 17-7-301, MCA, is amended to read:

“17-7-301. Authorization to expend during first year of biennium from appropriation for second year – proposed supplemental appropriation defined – limit on second-year expenditures. (1) An agency may make expenditures during the first fiscal year of the biennium from appropriations for the second fiscal year of the biennium if authorized by the general appropriations act. An agency that is not authorized in the general appropriations act to make first-year expenditures may be granted spending authorization by the approving authority upon submission and approval of a proposed supplemental appropriation to the approving authority. The proposal submitted to the approving authority must include a plan for reducing

expenditures in the second year of the biennium that allows the agency to contain expenditures within appropriations. If the approving authority finds that, due to an unforeseen and unanticipated emergency, the amount actually appropriated for the first fiscal year of the biennium with all other income will be insufficient for the operation and maintenance of the agency during the year for which the appropriation was made, the approving authority shall, after careful study and examination of the request and upon review of the recommendation for executive branch proposals by the budget director, submit the proposed supplemental appropriation to the legislative fiscal analyst.

(2) The plan for reducing expenditures required by subsection (1) is not required if the proposed supplemental appropriation is:

(a) due to an unforeseen and unanticipated emergency for fire suppression;

(b) requested by the superintendent of public instruction, in accordance with the provisions of 20-9-351, and is to complete the state's funding of guaranteed tax base aid, transportation aid, or equalization aid to elementary and secondary schools for the current biennium; or

(c) *requested by the department of public health and human services when the expenditures for the approved level of medicaid benefits exceed the level of the appropriations for medicaid benefits; or*

(c)(d) requested by the attorney general and:

(i) is to pay the costs associated with litigation in which the department of justice is required to provide representation to the state of Montana; or

(ii) in accordance with the provisions of 7-32-2242, is to pay costs for which the department of justice is responsible for confinement of an arrested person in a detention center.

(3) Upon receipt of the recommendation of the legislative finance committee pursuant to 17-7-311, the approving authority may authorize an expenditure during the first fiscal year of the biennium to be made from the appropriation for the second fiscal year of the biennium. Except as provided in subsection (2), the approving authority shall require the agency to implement the plan for reducing expenditures in the second year of the biennium that contains agency expenditures within appropriations.

(4) The agency may expend the amount authorized by the approving authority only for the purposes specified in the authorization.

(5) The approving authority shall report to the next legislature in a special section of the budget the amounts expended as a result of all authorizations granted by the approving authority and shall request that any necessary supplemental appropriation bills be passed.

(6) As used in this part, "proposed supplemental appropriation" means an application for authorization to make expenditures during the first fiscal year of the biennium from appropriations for the second fiscal year of the biennium.

(7) (a) Except as provided in subsections (2) and (7)(b), an agency may not make expenditures in the second year of the biennium that, if carried on for the full year, will require a deficiency appropriation, commonly referred to as a "supplemental appropriation".

(b) An agency shall prepare and, to the extent feasible, implement a plan for reducing expenditures in the second year of the biennium that contains agency expenditures within appropriations. The approving authority is responsible for ensuring the implementation of the plan. If, in the second year of a biennium, mandated expenditures that are required by state or federal law will cause an agency to exceed appropriations or available funds, the agency shall reduce all nonmandated expenditures pursuant to the plan in order to reduce to the greatest extent possible the expenditures in excess of appropriations or funding. An agency may not transfer funds between fund types in order to implement a plan."

Section 5. Section 17-7-311, MCA, is amended to read:

“17-7-311. Proposed fiscal year transfer supplemental appropriation – procedure. (1) *Except as provided in subsection (6),* a proposed supplemental appropriation to transfer appropriations between fiscal years of a biennium and all supporting documentation must be submitted to the legislative fiscal analyst. ~~The Except as provided in subsection (6),~~ the governor may not approve a proposed fiscal year transfer supplemental appropriation until the governor receives the legislative finance committee’s written report for that proposed fiscal year transfer supplemental appropriation unless:

(a) the report is not received within 90 calendar days from the date the proposed fiscal year transfer supplemental appropriation and supporting documentation were forwarded to the legislative finance committee, in which case the governor may approve the proposed fiscal year transfer supplemental appropriation; or

(b) there has been a waiver of the review and report requirements, as provided in subsection (4).

(2) The legislative fiscal analyst shall review each proposed fiscal year transfer supplemental appropriation submitted by the governor for compliance with statutory requirements and standards and to determine the expenditures that will be reduced in order to contain spending within legislative appropriations. The legislative fiscal analyst shall present a written report of this review to the legislative finance committee. Within 10 days after the legislative finance committee’s consideration of the proposed fiscal year transfer supplemental appropriation, the legislative fiscal analyst shall submit the legislative finance committee’s report to the governor.

(3) Upon receipt of the legislative finance committee’s written report, the governor may approve or deny the proposed fiscal year transfer supplemental appropriation or may return the proposed fiscal year transfer supplemental appropriation to the requesting agency for further information. If the governor has returned the proposed fiscal year transfer supplemental appropriation to the requesting agency and the requesting agency resubmits the proposed fiscal year transfer supplemental appropriation to the governor, all procedures provided in this section apply to the resubmitted proposed fiscal year transfer supplemental appropriation.

(4) (a) If an emergency occurs that poses a serious threat to the life, health, or safety of the public, the legislative fiscal analyst may waive the written review and the legislative finance committee’s written report required by this section. After a waiver, the legislative fiscal analyst may complete the written review.

(b) Upon receipt of the waiver, the governor may approve the proposed fiscal year transfer supplemental appropriation.

(c) A waiver affects only the legislative fiscal analyst’s written review and the legislative finance committee’s written report on the proposed fiscal year transfer supplemental appropriation. All other proposed fiscal year transfer supplemental appropriation requirements and standards remain in effect.

(5) Nothing in this part confers on the legislative finance committee authority to approve or deny a proposed fiscal year transfer supplemental appropriation.

(6) *For the biennium beginning July 1, 2019, the provisions of this section do not apply to a supplemental appropriation transfer for the department of public health and human services if the expenditures for the approved level of medicaid benefits exceed the level of the appropriations for medicaid benefits. Prior to approving a supplemental appropriation transfer for the department in that circumstance, the governor shall notify the legislative fiscal analyst in*

writing and shall subsequently report to the legislative finance committee on the dollar amount of the supplemental appropriation by September 30, 2020.”

Section 6. Section 52-3-115, MCA, is amended to read:

“52-3-115. (Temporary) Older Montanans trust fund. (1) There is an older Montanans trust fund within the permanent fund type. The trust fund is subject to legislative appropriation as provided in this section.

(2) The money in the fund may be used to create new, innovative services or to expand existing services for the benefit of Montana residents 60 years of age or older that will enable those Montanans to live an independent lifestyle in the least restrictive setting and will promote the dignity of and respect for those Montanans. The interest and income produced by the trust fund and appropriated to the department by the legislature is intended to increase services referred to in this subsection and not to supplant other sources of revenue for those programs in the trended traditional level, as used in 53-6-1201, of appropriations for those services.

(3) The department may accept contributions and gifts for the trust fund in money or other forms, and when accepted, the contributions and gifts must be deposited in the trust fund.

(4) Interest and income earned on money in the trust fund must be retained within the fund except as provided in this section. Until the year 2015, if assets in the fund reach the following amounts, money may be appropriated by the legislature and used in the following amounts for the programs specified in subsection (2):

(a) When the fund balance reaches \$20 million, 50% of the interest earned may be appropriated.

(b) When the fund balance reaches \$50 million, 60% of the interest earned may be appropriated.

(c) When the fund balance reaches \$100 million, 80% of the interest earned may be appropriated.

(5) On and after January 1, 2015, 90% of the interest earned on the trust fund may be appropriated for the programs specified in subsection (2).

(6) The department shall provide to the legislature a biennial report of the expenditures of the money appropriated from the older Montanans trust fund as provided in 5-11-210.

52-3-115. (Effective on occurrence of contingency -- temporary) Older Montanans trust fund. (1) There is an older Montanans trust fund within the permanent fund type. The trust fund is subject to legislative appropriation as provided in this section:

(2) The money in the fund may be used to fund existing services for the benefit of Montana residents 60 years of age or older that will enable those Montanans to live an independent lifestyle in the least restrictive setting and will promote the dignity of and respect for those Montanans. The interest and income produced by the trust fund and appropriated to the department by the legislature is intended to increase services referred to in this subsection and not to supplant other sources of revenue for those programs in the trended traditional level, as used in 53-6-1201, of appropriations for those services.

(3) The department may accept contributions and gifts for the trust fund in money or other forms, and when accepted, the contributions and gifts must be deposited in the trust fund.

(4) Interest and income earned on money in the trust fund must be retained within the fund except as provided in this section. Money may be appropriated by the legislature and used for the programs specified in section 2, Chapter 375, Laws of 2017.

(5) ~~The department shall provide to the legislature a biennial report of the expenditures of the money appropriated from the older Montanans trust fund as provided in 5-11-210. (Terminates June 30, 2019--sec. 10, Ch. 375, L. 2017.)~~

52-3-115. (Effective July 1, 2019) Older Montanans trust fund.

(1) There is an older Montanans trust fund within the permanent fund type. The trust fund is subject to legislative *transfer and* appropriation as provided in this section.

(2) The money in the fund may be used to create new, innovative services or to expand existing services for the benefit of Montana residents 60 years of age or older that will enable those Montanans to live an independent lifestyle in the least restrictive setting and will promote the dignity of and respect for those Montanans. The interest and income produced by the trust fund and appropriated to the department by the legislature is intended to increase services referred to in this subsection and not to supplant other sources of revenue for those programs in the trended traditional level, as used in 53-6-1201, of appropriations for those services.

(3) The department may accept contributions and gifts for the trust fund in money or other forms, and when accepted, the contributions and gifts must be deposited in the trust fund.

(4) ~~Interest and income earned on money in the trust fund must be retained within the fund except as provided in this section. Until the year 2015, if assets in the fund reach the following amounts, money may be appropriated by the legislature and used in the following amounts for the programs specified in subsection (2):~~

~~(a) When the fund balance reaches \$20 million, 50% of the interest earned may be appropriated;~~

~~(b) When the fund balance reaches \$50 million, 60% of the interest earned may be appropriated;~~

~~(c) When the fund balance reaches \$100 million, 80% of the interest earned may be appropriated.~~

~~(5) On and after January 1, 2015, 90% *Ninety percent* of the interest earned on the trust fund may be appropriated for the programs specified in subsection (2).~~

(6) The department shall provide to the legislature a biennial report of the expenditures of the money appropriated from the older Montanans trust fund as provided in 5-11-210."

Section 7. Section 53-1-402, MCA, is amended to read:

"53-1-402. Residents and financially responsible persons liable for cost of care. (1) A resident and a financially responsible person are liable to the department for the resident's cost of care as provided in this part. The cost of care includes the applicable per diem and ancillary charges or all-inclusive rate charges for the care of residents in the following institutions:

(a) Montana state hospital;

(b) Montana developmental center;

(c) Montana veterans' home;

(d) eastern Montana veterans' home;

(e) southwestern Montana veterans' home;

(f) Montana mental health nursing care center; and

(g) Montana chemical dependency treatment center.

(2) The eastern Montana veterans' home *and the southwestern Montana veterans' home* may assess charges on either a per diem and ancillary charge basis or an all-inclusive rate basis if the department contracts with a private vendor to operate the facility as provided for in 10-2-416.

(3) The Montana state hospital and the Montana mental health nursing center may determine the cost of care using an all-inclusive rate or per diem and ancillary charges if the department contracts with a private entity to operate a mental health managed care program.”

Section 8. Section 53-6-125, MCA, is amended to read:

“53-6-125. Physician services reimbursement. (1) The fee for a covered service provided by a physician under the medicaid program is determined by multiplying the conversion factor times the relative value unit for that service times any applicable policy adjusters.

(2) (a) For fiscal years 2018 and 2019, the conversion factor must be increased, at a minimum, by the same numerical inflation factor calculated in accordance with 20-9-326.

(b) For each subsequent fiscal year, the conversion factor must be increased, at a minimum, by the same percentage increase as the consumer price index for medical care for the previous year, as calculated by the bureau of labor statistics of the United States department of labor.

(3) *For the biennium beginning July 1, 2019, the amount of reimbursement calculated under this section each fiscal year is reduced to fund the development of health information exchange by the following amounts:*

(a) *for the fiscal year beginning July 1, 2019, \$200,000; and*

(b) *for the fiscal year beginning July 1, 2020, \$400,000.”*

Section 9. Section 53-19-310, MCA, is amended to read:

“53-19-310. Account for telecommunications services and specialized telecommunications equipment for persons with disabilities. (1) *There Subject to legislative transfer, there is an account for telecommunications services and specialized telecommunications equipment for persons with disabilities in the state special revenue fund in the state treasury. The account consists of:*

(a) *all monetary contributions, gifts, and grants received by the committee as provided in 53-19-309; and*

(b) *all fees billed and collected pursuant to 53-19-311.*

(2) *The money in the account is allocated to the committee for purposes of implementing this part.*

(3) *All expenditures of the committee in administering this part must be paid from money deposited in the account.”*

Section 10. Fund transfers. (1) By August 15, 2019, the state treasurer shall make the following transfers:

(a) *\$1.5 million from the account established in 53-19-310 to the account established in [section 1]; and*

(b) *\$320,608 from the older Montanans trust fund established in 52-3-115 to the older Montanans trust fund state special revenue account established in [section 2].*

(2) By August 15, 2020, the state treasurer shall make the following transfers:

(a) *\$2 million from the account established in 53-19-310 to the account established in [section 1]; and*

(b) *\$748,085 from the older Montanans trust fund established in 52-3-115 to the older Montanans trust fund state special revenue account established in [section 2].*

Section 11. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 52, and the provisions of Title 52 apply to [sections 1 and 2].

Section 12. Effective date. [This act] is effective July 1, 2019.

Section 13. Termination. [Sections 4, 5, and 8] terminate June 30, 2021.

Approved May 8, 2019

CHAPTER NO. 394

[HB 680]

AN ACT REVISING LAWS RELATED TO TARGETED CASE MANAGEMENT SERVICES; ESTABLISHING A CASELOAD CAP ON CONTRACTED TARGETED CASE MANAGEMENT SERVICES FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES; APPROPRIATING MONEY FOR MEETING THE CASELOAD REQUIREMENTS; AMENDING SECTIONS 53-20-202 AND 53-20-205, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-20-202, MCA, is amended to read:

“53-20-202. Definitions. As used in this part, the following definitions apply:

(1) “Comprehensive developmental disability system” means a system of services, including but not limited to the following basic services, with the intention of providing alternatives to institutionalization:

- (a) evaluation services;
- (b) diagnostic services;
- (c) treatment services;
- (d) day-care services;
- (e) training services;
- (f) education services;
- (g) employment services;
- (h) recreation services;
- (i) personal-care services;
- (j) domiciliary-care services;
- (k) special living arrangements services;
- (l) counseling services;
- (m) information and referral services;
- (n) follow-along services;
- (o) protective and other social and sociolegal services, *including case management services as defined in 42 CFR 440.169*; and
- (p) transportation services.

(2) “Department” means the department of public health and human services.

(3) “Developmental disabilities” means disabilities attributable to intellectual disability, cerebral palsy, epilepsy, autism, or any other neurologically disabling condition closely related to intellectual disability and requiring treatment similar to that required by intellectually disabled individuals if the disability originated before the person attained age 18, has continued or can be expected to continue indefinitely, and results in the person having a substantial disability.

(4) “Developmental disabilities facility” means any service or group of services offering care to persons with developmental disabilities on an inpatient, outpatient, residential, clinical, or other programmatic basis.

(5) “Legal resident” means a person who maintains Montana as the person’s principal establishment, home of record, or permanent home and where, whenever absent due to military obligation, the person intends to return.

(6) “Military dependent” means a child of a military service member.

(7) “Military service” means service in the armed forces or armed forces reserves or membership in the Montana national guard.

(8) "Military service member" means a person who is currently in military service or who has separated from military service in the previous 18 months either through retirement or military separation."

Section 2. Section 53-20-205, MCA, is amended to read:

"53-20-205. Community services. (1) The department may establish and administer community comprehensive services, programs, clinics, or other facilities throughout the state for the purpose of aiding in the prevention, diagnosis, amelioration, or treatment of developmental disabilities. Programs, clinics, or other services may be provided directly by state agencies or indirectly through contract or cooperative arrangements with other agencies of government, regional or local, private or public agencies, private professional persons, or accredited health or long-term care facilities.

(2) (a) The department may contract for programs for developmental disabilities services. Contracts entered into by the department must contain specific conditions for performance by the contractor. The department shall set minimum standards for programs and establish appropriate qualifications for persons employed in the programs.

(b) *A contract for case management services targeted for people with developmental disabilities must include funding to allow for an average caseload of no more than 35 clients per case manager.*

(3) All developmental disabilities facilities and services must comply with existing federal guidelines and with requirements that will enable the services and facilities to qualify for available aid funds. However, this section does not require facilities serving persons with developmental disabilities to meet the same or equal standards as licensed medical facilities unless the developmental disabilities facility is providing professional or skilled medical care.

(4) Comprehensive services, programs, clinics, or other facilities established or provided by the department under this part must conform as nearly as possible to the plans of the council created under 2-15-1869.

(5) The department may promote scientific and medical research investigations relative to the incidence, cause, prevention, and care of persons with developmental disabilities."

Section 3. Appropriation. The following amounts are appropriated to the department of public health and human services for the biennium beginning July 1, 2019, for contracted case management services for people with developmental disabilities:

Fiscal year 2020	\$927,348	federal special revenue
	\$500,000	general fund
Fiscal year 2021	\$919,648	federal special revenue
	\$500,000	general fund

Section 4. Direction to department of public health and human services. The legislature intends that the appropriation in [this act] be combined with, and not supplant, existing funding appropriated in House Bill No. 2 as part of the base budget for the department of public health and human services and used by the developmental services division for targeted case management services for people with developmental disabilities.

Section 5. Effective date. [This act] is effective July 1, 2019.

Approved May 8, 2019

CHAPTER NO. 395

[HB 688]

AN ACT IMPLEMENTING THE PROVISIONS OF THE GENERAL APPROPRIATIONS ACT FOR SECTION A; PROVIDING FUND TRANSFERS; AMENDING SECTION 28, CHAPTER 6, SPECIAL LAWS OF NOVEMBER 2017; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 28, Chapter 6, Special Laws of November 2017, is amended to read:

“Section 28. Termination. (1) ~~[This act]~~ *Except as provided in subsection (2), [this act] terminates June 30, 2019.*

(2) *[Section 13] terminates June 30, 2021.”*

Section 2. Fund transfer. (1) By August 15, 2019, the state treasurer shall transfer to the general fund \$56,852 from the state special revenue account referenced in 30-10-115(2)(a).

(2) By August 15, 2020, the state treasurer shall transfer to the general fund the following amounts:

(a) \$284,299 from the state special revenue account referenced in 33-2-708(3)(c); and

(b) \$56,740 from the state special revenue account referenced in 30-10-115(2)(a).

Section 3. Effective date. [This act] is effective July 1, 2019.

Approved May 8, 2019

CHAPTER NO. 396

[HB 694]

AN ACT GENERALLY REVISING FEES FOR VARIOUS PROFESSIONAL INDIVIDUALS OR ENTITIES DEALING WITH SECURITIES; AMENDING SECTION 30-10-209, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 30-10-209, MCA, is amended to read:

“30-10-209. Fees. The following fees must be paid in advance under the provisions of parts 1 through 3 of this chapter:

(1) (a) For the registration of securities by notification, coordination, or qualification or for notice filing of a federal covered security, there must be paid to the commissioner for the initial year of registration or notice filing a fee of \$200 for the first \$100,000 of initial issue or portion of the first \$100,000 in this state, based on offering price, plus 1/10 of 1% for any excess over \$100,000, with a maximum fee of \$1,000.

(b) Each succeeding year, a registration of securities or a notice filing of a federal covered security may be renewed, prior to its termination date, for an additional year upon consent of the commissioner and payment of a renewal fee to be computed at 1/10 of 1% of the aggregate offering price of the securities that are to be offered in this state during that year. The renewal fee may not be less than \$200 or more than \$1,000. The registration or the notice filing may be amended to increase the amount of securities to be offered.

(c) If a registrant or issuer of federal covered securities sells securities in excess of the aggregate amount registered for sale in this state or for

which a notice filing has been submitted, the registrant or issuer may file an amendment to the registration statement or notice filing to include the excess sales. If the registrant or issuer of a federal covered security fails to file an amendment before the expiration date of the registration order or notice, the registrant or issuer shall pay a filing fee for the excess sales of three times the amount calculated in the manner specified in subsection (1)(b). Registration or notice of the excess securities is effective retroactively to the date of the existing registration or notice.

(d) Each series, portfolio, or other subdivision of an investment company or similar issuer is treated as a separate issuer of securities. The issuer shall pay a notice filing fee to be calculated as provided in subsections (1)(a) through (1)(c). The notice filing fee collected by the commissioner must be deposited in the state special revenue account provided for in 30-10-115. The issuer shall pay a fee of \$50 for each filing made for the purpose of changing the name of a series, portfolio, or other subdivision of an investment company or similar issuer.

(2) (a) For registration of a broker-dealer or investment adviser, the fee is ~~\$200~~ \$400 for original registration and ~~\$200~~ \$400 for each annual renewal.

(b) (i) For registration of a salesperson or investment adviser representative, the fee:

(A) *for an out-of-state salesperson or investment adviser representative* is ~~\$50~~ \$100 for original registration with each employer, ~~\$50~~ \$100 for each annual renewal, and ~~\$50~~ \$100 for each transfer; *and*

(B) *for an in-state salesperson or investment adviser representative* is \$50 for original registration with each employer, \$50 for each annual renewal, and \$50 for each transfer.

(ii) A salesperson who is registered as an investment adviser representative with a broker-dealer registered as an investment adviser is not required to pay the ~~\$50~~ fee in subsection (2)(b)(i)(A) or (2)(b)(i)(B) to register as an investment adviser representative.

(c) For a federal covered adviser, the fee is ~~\$200~~ \$400 for the initial notice filing and ~~\$200~~ \$400 for each annual renewal.

(3) For certified or uncertified copies of any documents filed with the commissioner, the fee is the cost to the department.

(4) For a request for an exemption under 30-10-105(15), the fee must be established by the commissioner by rule. For a request for any other exemption or an exception to the provisions of parts 1 through 3 of this chapter, the fee is ~~\$50~~ \$100.

(5) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 may be refunded.

(6) (a) Except as provided in subsection (6)(b), all fees, miscellaneous charges, fines, and penalties collected by the commissioner pursuant to parts 1 through 3 of this chapter and the rules adopted under parts 1 through 3 of this chapter must be deposited in the general fund.

(b) From March 7, 2013, through June 30, 2021, the fees collected under subsection (1)(b), the notice filing fees provided for in subsection (1)(d), and the amounts collected for examination costs under 30-10-210 are subject to deposit as provided in 30-10-115(2). On or after July 1, 2021, the notice filing fees provided for in subsection (1)(d) and the amounts collected for examination costs under 30-10-210 are subject to deposit as provided in 30-10-115(2)."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2019

CHAPTER NO. 397

[HB 695]

AN ACT PROVIDING AN APPROPRIATION TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO PURCHASE A RECREATION EASEMENT AT BIG ARM STATE PARK; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriation. (1) Except as provided in subsection (2), for the biennium beginning July 1, 2019, there is appropriated to the department of fish, wildlife, and parks for the purchase of a permanent recreation easement at Big Arm state park from the department of natural resources and conservation the following:

(a) \$5,823,000 from the state special revenue fund established in 87-1-601;
(b) \$4,677,000 from the federal special revenue fund established in 87-1-601; and

(c) \$1,500,000 from the state special revenue fund established in 23-1-105.

(2) If donations are received for the purchase of the recreation easement, then the appropriation in subsection (1)(a) must be decreased by the amount of donations received, and the department of fish, wildlife, and parks is authorized to use the donations toward the purchase of the easement.

Section 2. Effective date. [This act] is effective July 1, 2019.

Approved May 8, 2019

CHAPTER NO. 398

[HB 715]

AN ACT REVISING LAWS RELATED TO THE BUDGET STABILIZATION RESERVE FUND; REVISING PERCENTAGES FOR REDUCTIONS IN SPENDING; PROVIDING FOR A FINANCIAL MODERNIZATION AND RISK ANALYSIS STUDY TO BE COMPLETED BY A COMMITTEE OF THE LEGISLATIVE FINANCE COMMITTEE AND OTHER MEMBERS; DIRECTING THE LEGISLATIVE FINANCE COMMITTEE TO CONDUCT A STUDY ON LONG-TERM BUDGET STABILIZATION; SETTING PARAMETERS FOR THE STUDIES; PROVIDING FOR A TRANSFER OF FUNDS INTO THE BUDGET STABILIZATION RESERVE FUND;

PROVIDING FUND TRANSFERS; PROVIDING FOR APPROPRIATIONS; AMENDING SECTIONS 5-12-205, 10-3-312, 17-7-130, AND 17-7-140, MCA; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-12-205, MCA, is amended to read:

“5-12-205. Powers and duties of committee. The committee:

(1) may organize, adopt rules to govern its proceedings, *form subcommittees*, and meet as often as necessary, upon the call of the presiding officer, to advise and consult with the legislative fiscal analyst;

(2) may employ and, in accordance with the rules for classification and pay adopted by the legislative council, set the salary of the legislative fiscal analyst. The legislative fiscal analyst shall serve at the pleasure of and be responsible for providing services to the committee.

(3) may exercise the investigatory powers of a standing committee under chapter 5, part 1, of this title;

(4) shall monitor the information technology policies of the department of administration with specific attention to:

(a) identification of information technology issues likely to require future legislative attention; and

(b) the evaluation of proposed information technology policy changes and the fiscal implications of the proposed changes and shall provide written responses to the department of administration communicating the committee's positions and concerns on proposed policy changes;

(5) may accumulate, compile, analyze, and provide information relevant to existing or proposed legislation on how information technology can be used to impact the welfare of the state;

(6) may prepare legislation to implement any proposed changes involving information technology; ~~and~~

(7) shall, before each regular and special legislative session involving budgetary matters, prepare recommendations to the house appropriations committee and the senate finance and claims committee on the application of certain budget issues. At a minimum, the recommendations must include procedures for the consistent application during each session of inflation factors, the allocation of fixed costs, and the personal services budget. The committee may also make recommendations on other issues of major concern in the budgeting process, such as estimating the cost of implementing particular programs based upon present law; *and*

(8) *may, for the biennium beginning July 1, 2019, appoint up to six ad hoc nonvoting committee members from the house of representatives. These members may participate in meetings, but may not vote."*

Section 2. Section 10-3-312, MCA, is amended to read:

"10-3-312. Maximum expenditure by governor – appropriation.

(1) Whenever a disaster or an emergency, including an energy emergency as defined in 90-4-302 or an invasive species emergency declared under 80-7-1013, is declared by the governor, there is statutorily appropriated to the office of the governor, as provided in 17-7-502, and, subject to subsection (2), the governor is authorized to expend from the general fund an amount not to exceed \$16 million in any biennium, minus any amount appropriated pursuant to 10-3-310 in the same biennium. The statutory appropriation in this subsection may be used by any state agency designated by the governor.

(2) In the event of the recovery of money expended under this section, the spending authority must be reinstated to a level reflecting the recovery.

(3) If a disaster is declared by the president of the United States, there is statutorily appropriated to the office of the governor, as provided in 17-7-502, and the governor is authorized to expend from the general fund an amount not to exceed \$500,000 during the biennium to meet the state's share of the individuals and households grant programs as provided in 42 U.S.C. 5174. The statutory appropriation in this subsection may be used by any state agency designated by the governor.

(4) *At Except as provided in subsection (5), at the end of each biennium, an amount equal to the unexpended and unencumbered balance of the \$16 million statutory appropriation in subsection (1), minus any amount appropriated pursuant to 10-3-310 in the same biennium, must be transferred by the state treasurer from the state general fund to the fire suppression account provided for in 76-13-150.*

(5) *For the biennium ending June 30, 2019, the state treasurer shall transfer the amount calculated pursuant to subsection (4) from the state general fund into the budget stabilization reserve fund established in 17-7-130."*

Section 3. Section 17-7-130, MCA, is amended to read:

“17-7-130. Budget stabilization reserve fund – rules for deposits and transfers – purpose. (1) There is an account in the state special revenue fund established by 17-2-102 known as the budget stabilization reserve fund.

(2) The purpose of the budget stabilization reserve fund is:

(a) to mitigate budget reductions when there is a revenue shortfall; and

(b) when there are funds in excess of the ~~operating~~ reserve level, to:

(i) pay down the debt service on bonds for capital projects previously authorized by the legislature if allowed without penalty by the terms of the bond issuance;

(ii) delay, forego, or reduce the amount of an issuance of bonds authorized by the legislature; and

(iii) allow the funds to remain in the account.

(3) By August 1 of each year, the department of administration shall certify to the legislative fiscal analyst and the budget director the following:

(a) the unaudited, unassigned ending fund balance of the general fund for the prior fiscal year; and

(b) the amount of unaudited general fund revenue and transfers into the general fund received in the prior fiscal year recorded when that fiscal year’s statewide accounting, budgeting, and human resource system records are closed. General fund revenue and transfers into the general fund are those recorded in the statewide accounting, budgeting, and human resource system using generally accepted accounting principles in accordance with 17-1-102.

(4) For the fiscal years beginning July 1, 2016, through July 1, 2020, if actual general fund revenue exceeds the revenue estimate established pursuant to 5-5-227 for that fiscal year, excess revenue over the amount of revenue that exceeds the revenue estimate by \$15 million is allocated as follows:

(a) 50% remains in the general fund; and

(b) 50% is transferred into the budget stabilization reserve fund on or before August 15 of the following fiscal year.

(5) Starting in the fiscal year beginning July 1, 2021, the state treasurer shall transfer, by August 15 of the following fiscal year:

(a) if there is not an operating reserve differential, from the general fund to the budget stabilization reserve fund an amount equal to 50% of the excess revenue for the fiscal year;

~~(b) if there is an operating reserve differential for the fiscal year, from the general fund to the budget stabilization reserve fund an amount equal to 50% of the excess revenue for the fiscal year less the operating reserve differential; and~~

~~(c) if the ending fund balance of the general fund for the prior year is less than 6.8% of the amount of all general fund appropriations in the second year of the biennium, from the budget stabilization reserve fund to the general fund up to one-half of the amount in the budget stabilization reserve fund in excess of the amount of 2% of all general fund appropriations in the second year of the biennium in the subsequent fiscal year.~~

(6) For the purposes of this section, the following definitions apply:

(a) “Adjusted revenue” means general fund revenue for the prior fiscal year plus the growth amount.

(b) “Excess revenue” means the amount of general fund revenue, including transfers in, for the most recently completed fiscal year minus adjusted revenue.

(c) “Growth amount” means general fund revenue for the prior fiscal year multiplied by the growth rate.

(d) "Growth rate" means the average compound rate of growth of general fund revenue for the most recently completed 6 fiscal years.

~~(e) "Operating reserve differential" means a nonnegative difference from 8.3% of all general fund appropriations in the second year of the biennium minus the sum of the ending fund balance for the prior year and 50% of excess revenue of the prior year."~~

Section 4. Section 17-7-140, MCA, is amended to read:

"17-7-140. Reduction in spending. (1) (a) As the chief budget officer of the state, the governor shall ensure that the expenditure of appropriations does not exceed available revenue. Except as provided in subsection (2), in the event of a projected general fund budget deficit, the governor, taking into account the criteria provided in subsection (1)(c), shall direct agencies to reduce spending in an amount that ensures that the projected ending general fund balance for the biennium will be at least:

(i) ~~6%~~ 4% of the general fund appropriations for the second fiscal year of the biennium prior to October of the year preceding a legislative session;

(ii) 3% of the general fund appropriations for the second fiscal year of the biennium in October of the year preceding a legislative session;

(iii) 2% of the general fund appropriations for the second fiscal year of the biennium in January of the year in which a legislative session is convened; and

(iv) 1% of the general fund appropriations for the second fiscal year of the biennium in March of the year in which a legislative session is convened.

(b) An agency may not be required to reduce general fund spending for any program, as defined in each general appropriations act, by more than 10% during a biennium. *Starting January 1, 2021, a governor may not reduce total agency spending in the biennium by more than 4% of the second year appropriations for the agency.* Departments or agencies headed by elected officials or the board of regents may not be required to reduce general fund spending by a percentage greater than the percentage of general fund spending reductions required for the ~~total~~ *weighted average* of all other executive branch agencies. The legislature may exempt from a reduction an appropriation item within a program or may direct that the appropriation item may not be reduced by more than 10%.

(c) The governor shall direct agencies to manage their budgets in order to reduce general fund expenditures. Prior to directing agencies to reduce spending as provided in subsection (1)(a), the governor shall direct each agency to analyze the nature of each program that receives a general fund appropriation to determine whether the program is mandatory or permissive and to analyze the impact of the proposed reduction in spending on the purpose of the program. An agency shall submit its analysis to the office of budget and program planning and shall at the same time provide a copy of the analysis to the legislative fiscal analyst. The report must be submitted in an electronic format. The office of budget and program planning shall review each agency's analysis, and the budget director shall submit to the governor a copy of the office of budget and program planning's recommendations for reductions in spending. The budget director shall provide a copy of the recommendations to the legislative fiscal analyst at the time that the recommendations are submitted to the governor and shall provide the legislative fiscal analyst with any proposed changes to the recommendations. The recommendations must be provided in an electronic format. The legislative finance committee shall meet within 20 days of the date that the proposed changes to the recommendations for reductions in spending are provided to the legislative fiscal analyst. The legislative fiscal analyst shall provide a copy of the legislative fiscal analyst's review of the proposed reductions in spending to the budget director at least

5 days before the meeting of the legislative finance committee. The committee may make recommendations concerning the proposed reductions in spending. The governor shall consider each agency's analysis and the recommendations of the office of budget and program planning and the legislative finance committee in determining the agency's reduction in spending. Reductions in spending must be designed to have the least adverse impact on the provision of services determined to be most integral to the discharge of the agency's statutory responsibilities.

(2) Reductions in spending for the following may not be directed by the governor:

- (a) payment of interest and principal on state debt;
- (b) the legislative branch;
- (c) the judicial branch;
- (d) the school BASE funding program, including special education;
- (e) salaries of elected officials during their terms of office; and
- (f) the Montana school for the deaf and blind.

(3) (a) As used in this section, "projected general fund budget deficit" means an amount, certified by the budget director to the governor, by which the projected ending general fund balance for the biennium is less than:

- (i) 5% 4% of the general fund appropriations for the second fiscal year of the biennium prior to October of the year preceding a legislative session;
 - (ii) 1.875% in October of the year preceding a legislative session;
 - (iii) 1.25% in January of the year in which a legislative session is convened;
- and

- (iv) 0.625% in March of the year in which a legislative session is convened.

(b) In determining the amount of the projected general fund budget deficit, the budget director shall take into account revenue, established levels of appropriation, anticipated supplemental appropriations for school equalization aid and the cost of the state's wildland fire suppression activities exceeding the amount statutorily appropriated in 10-3-312, and anticipated reversions.

(4) If the budget director determines that an amount of actual or projected receipts will result in an amount less than the amount projected to be received in the revenue estimate established pursuant to 5-5-227, the budget director shall notify the revenue and transportation interim committee of the estimated amount. Within 20 days of notification, the revenue and transportation interim committee shall provide the budget director with any recommendations concerning the amount. The budget director shall consider any recommendations of the revenue and transportation interim committee prior to certifying a projected general fund budget deficit to the governor.

(5) If the budget director certifies a projected general fund budget deficit, the governor may authorize transfers to the general fund from certain accounts as set forth in subsections (6), ~~and~~ (7), ~~and~~ (8).

(6) Before January 1, 2021, the governor may authorize transfers from the budget stabilization reserve fund prior to making reductions in spending. A transfer under this subsection may not cause the fund balance of the budget stabilization reserve fund to be less than 1% of all general fund appropriations in the second year of the biennium.

(6)(7) The governor may authorize transfers from the budget stabilization reserve fund provided for in 17-7-130. The governor may authorize \$2 of transfers from the fund for each \$1 of reductions in spending.

(7)(8) If the budget director certifies a projected general fund budget deficit, the governor may authorize transfers to the general fund from the fire suppression account established in 76-13-150. The amount of funds available for a transfer from this account is up to the sum of the fund balance of the

account, plus expected current year revenue, minus the sum of 1% of the general fund appropriations for the second fiscal year of the biennium, plus estimated expenditures from the account for the fiscal year. The governor may authorize \$1 of transfers from the fire suppression account established in 76-13-150 for each \$1 of reductions in spending.”

Section 5. Legislative financial modernization and risk analysis study. (1) A committee of members of the legislative finance committee and appointed members shall study the long-term future budget and revenue needs with changing economics and demographics.

(2) The study must be conducted by a bipartisan committee consisting of the following:

(a) six members of the legislative finance committee, with three members appointed by the chair and three members appointed by the vice chair; and

(b) four members with two appointed by the chair and vice chair of the committee.

(3) The legislative fiscal division shall provide administrative staff support and fiscal analysis. The legislative services division may provide research and legal support at the request of the committee.

(4) Subject to direction provided by the committee, the study shall include but is not limited to:

(a) identifying structural revenue challenges with economic, demographic, and geographical variability considerations;

(b) exploring revenue sufficiency for long-term potential expenditures, including but not limited to the following:

(i) health care costs, consumption, and funding;

(ii) K-12 inflationary increases;

(iii) higher education;

(iv) pensions;

(v) state infrastructure;

(vi) natural resource revenue funded programs; and

(vii) local government spending including infrastructure; and

(c) proposing potential solutions and possible legislation for consideration by the 2021 legislature.

Section 6. Long term budget stabilization study. (1) The legislative finance committee shall direct a study of fiscal and economic conditions.

(2) Subject to direction provided by the legislative finance committee the study may include but is not limited to research related to the following topics:

(a) budget stress tests, including pension stress testing, revenue volatility, revenue trends, expenditure trends, and expenditure volatility;

(b) local government expenditures and funding;

(c) financial sustainability of revenue sources supporting natural resource programs, education programs, and medicaid and the children's health insurance program; and

(d) personal services budgeting practices.

(3) The legislative fiscal division shall complete the study and report the results of the study to the legislative finance committee for consideration and possible legislation to be introduced in the 2021 legislative session.

Section 7. Appropriations. (1) There is appropriated \$80,000 for the biennium beginning July 1, 2019, to the legislative fiscal division from the general fund for interim activities.

(2) There is appropriated \$100 for the biennium beginning July 1, 2019, to the legislative fiscal division from the general fund for the purposes of the study as set forth in [section 6].

(3) If the legislative council approves and requests the appointment of additional members to the interim committees pursuant to 5-5-211, for the biennium beginning July 1, 2019, there is appropriated \$65,000 from the general fund to the legislative services division.

Section 8. Fund transfers. (1) By August 15, 2019, the state treasurer shall transfer the following amounts to the general fund:

(a) \$250,000 from the state special revenue account established in 17-6-603; and

(b) \$500,000 from the state special revenue account established in 50-46-345.

(2) By August 15, 2020, the state treasurer shall transfer the following amounts to the general fund:

(a) \$250,000 from the state special revenue account established in 17-6-603; and

(b) \$500,000 from the state special revenue account established in 50-46-345.

Section 9. Appropriations to executive agencies – allocations.

(1) The appropriations provided for in this section must be allocated to agencies by the budget director. The budget director shall make the preliminary allocations of the appropriations in the statewide accounting, budgeting, and human resource system by August 15, 2019. Except as provided in subsection (2), the allocated appropriations are considered part of the House Bill No. 2 base budget for the purposes of Title 17, chapter 7.

(2) Prior to establishing the appropriations in the statewide accounting, budgeting, and human resource system, the legislative fiscal analyst and the budget director shall agree in writing which allocated appropriations are not considered part of the base budget for the 67th legislature. The individual appropriations established in the statewide accounting, budgeting, and human resource system must be identifiable to the source of the appropriation by subclass.

(3) In the fiscal year beginning July 1, 2019, the following sums are appropriated to the governor's office for allocation by the budget director:

(a) \$660,000 in general fund;

(b) \$6,880,000 in state special revenue funds;

(c) \$40,000 in federal special revenue funds; and

(d) \$820,000 in proprietary funds.

(4) In the fiscal year beginning July 1, 2020, the following sums are appropriated to the governor's office for allocation by the budget director:

(a) \$730,000 in general fund;

(b) \$5,900,000 in state special revenue funds;

(c) \$40,000 in federal special revenue funds; and

(d) \$720,000 in proprietary funds.

(5) (a) In fiscal year beginning July 1, 2019, the budget director may allocate a total of 13.50 new permanent FTEs to executive agencies.

(b) In fiscal year beginning July 1, 2020, the budget director may allocate a total of 15.50 new permanent FTEs to executive agencies.

Section 10. Appropriations to department of justice – allocations.

(1) The appropriations provided for in this section are allocated to the department of justice. The department shall make the preliminary allocations of the appropriations among programs by August 15, 2019. Except as provided in subsection (2), the allocated appropriations are considered part of the House Bill No. 2 base budget for the purposes of Title 17, chapter 7.

(2) Prior to establishing the appropriations in the statewide accounting, budgeting, and human resource system, the legislative fiscal analyst and the budget director shall agree in writing which allocated appropriations are not considered part of the base budget for the 67th legislature. The individual

appropriations established in the statewide accounting, budgeting, and human resource system must be identifiable to the source of the appropriation by subclass.

(3) In the fiscal year beginning July 1, 2019, the following sums are appropriated to the department of justice:

- (a) \$230,000 in general fund; and
- (b) \$1,460,000 in state special revenue funds.

(4) In the fiscal year beginning July 1, 2020, the following sums are appropriated to the department of justice:

- (a) \$220,000 in general fund; and
- (b) \$1,460,000 in state special revenue funds.

(5) (a) In each fiscal year beginning July 1, 2019, the department of justice may allocate a total of 6.25 new permanent FTEs to the department of justice.

(b) In each fiscal year beginning July 1, 2020, the department of justice may allocate a total of 12.25 new permanent FTEs to the department of justice.

Section 11. Appropriations to office of public instruction – allocations. (1) The appropriations provided for in this section are allocated to the office of public instruction. The office of public instruction shall make the preliminary allocations of the appropriations among programs by August 15, 2019. Except as provided in subsection (2), the allocated appropriations are considered part of the House Bill No. 2 budget for the purposes of Title 17, chapter 7.

(2) In the fiscal year beginning July 1, 2019, \$30,000 is appropriated one time from the general fund to the office of public instruction.

Section 12. Appropriations to state auditor's office – allocations.

(1) The appropriations provided for in this section are allocated to the state auditor's office. The state auditor's office shall make the preliminary allocations of the appropriations among programs by August 15, 2019. Except as provided in subsection (2), the allocated appropriations are considered part of the House Bill No. 2 base budget for the purposes of Title 17, chapter 7.

(2) Prior to establishing the appropriations in the statewide accounting, budgeting, and human resource system, the legislative fiscal analyst and the budget director shall agree in writing which allocated appropriations are not considered part of the base budget for the 67th legislature. The individual appropriations established in the statewide accounting, budgeting, and human resource system must be identifiable to the source of the appropriation by subclass.

(3) In the fiscal year beginning July 1, 2019, the following sums are appropriated to the state auditor's office:

- (a) \$10,100,000 in state special revenue funds; and
- (b) \$34,100,000 in federal special revenue funds.

(4) In the fiscal year beginning July 1, 2020, the following sums are appropriated to the state auditor's office:

- (a) \$10,000,000 in state special revenue funds; and
- (b) \$34,100,000 in federal special revenue funds.

(5) In each fiscal year beginning July 1, 2019, and July 1, 2020, the state auditor's office may allocate a total of 0.50 new permanent FTEs to the state auditor's office.

Section 13. Appropriations to public service commission – allocations – coordination. (1) The appropriations provided for in this section are allocated to the public service commission. The public service commission shall make the preliminary allocations of the appropriations among programs by August 15, 2019. Except as provided in subsection (2),

the allocated appropriations are considered part of the House Bill No. 2 base budget for the purposes of Title 17, chapter 7.

(2) Prior to establishing the appropriations in the statewide accounting, budgeting, and human resource system, the legislative fiscal analyst and the budget director shall agree in writing which allocated appropriations are not considered part of the base budget for the 67th legislature. The individual appropriations established in the statewide accounting, budgeting, and human resource system must be identifiable to the source of the appropriation by subclass.

(3) If House Bill No. 597 is passed and approved, in the fiscal year beginning July 1, 2019, \$290,000 in state special revenue funds are appropriated to the public service commission.

(4) If House Bill No. 597 is passed and approved, in the fiscal year beginning July 1, 2020, \$270,000 in state special revenue funds are appropriated to the public service commission.

Section 14. Coordination instruction. If both [this act] and House Bill No. 636 are passed and approved, then for the biennium beginning July 1, 2019, there is appropriated to department of revenue funds up to \$2,000,000 from the general fund to make payments to a local governing body pursuant to 15-1-402(6)(d) for the purpose of complying with House Bill No. 636, and the department of revenue may request a supplemental appropriation if the appropriation is not sufficient to make all payments in the biennium.

Section 15. Coordination instruction. If [this act] and House Bill No. 749 are passed and approved, then [section 2(1) of House Bill No. 749] must read:

“NEW SECTION. **Section 2. Appropriations.** (1) There is appropriated \$519,815 from a state special revenue account to the credit of the department of justice for the biennium beginning July 1, 2019, for the purpose of establishing a two-person human trafficking enforcement team consisting of two agents from the division of criminal investigation.”

Section 16. Coordination instruction. If both [this act] and Senate Bill No. 330 are passed and approved, the legislature intends that the department of justice be authorized to enter into contracts, loan agreements, or other forms of indebtedness pursuant to 17-5-2001, not to exceed \$1,311,573 and payable over a term not to exceed 10 years, for financing the cost of implementing the provisions of Senate Bill No. 330. Loans are payable from the state special revenue fund provided for in [section 15 of Senate Bill No. 330].

Section 17. Coordination instruction. If both [this act] and House Bill No. 553 are passed and approved, then the section in [this act] amending 17-7-130 is void and 17-7-130 must be amended to read:

“17-7-130. Budget stabilization reserve fund – rules for deposits and transfers – purpose. (1) There is an account in the state special revenue fund established by 17-2-102 known as the budget stabilization reserve fund.

(2) The purpose of the budget stabilization reserve fund is:

(a) to mitigate budget reductions when there is a revenue shortfall; and

(b) when there are funds in excess of the ~~operating~~ reserve level, to:

(i) pay down the debt service on bonds for capital projects previously authorized by the legislature if allowed without penalty by the terms of the bond issuance; *and*

(ii) delay, forego, or reduce the amount of an issuance of bonds authorized by the legislature; *and*

~~(iii) allow the funds to remain in the account.~~

(3) By August 1 of each year, the department of administration shall certify to the legislative fiscal analyst and the budget director the following:

(a) the unaudited, unassigned ending fund balance of the general fund for the prior fiscal year; and

(b) the amount of unaudited general fund revenue and transfers into the general fund received in the prior fiscal year recorded when that fiscal year's statewide accounting, budgeting, and human resource system records are closed. General fund revenue and transfers into the general fund are those recorded in the statewide accounting, budgeting, and human resource system using generally accepted accounting principles in accordance with 17-1-102.

(4) For the fiscal years beginning July 1, 2016, through July 1, 2020, if actual general fund revenue exceeds the revenue estimate established pursuant to 5-5-227 for that fiscal year, excess revenue over the amount of revenue that exceeds the revenue estimate by \$15 million is allocated as follows:

(a) 50% remains in the general fund; and

(b) 50% is transferred into the budget stabilization reserve fund on or before August 15 of the following fiscal year.

(5) Starting in the fiscal year beginning July 1, 2021, the state treasurer shall transfer, by August 15 of the following fiscal year:

(a) if there is not an operating reserve differential, from the general fund to the budget stabilization reserve fund an amount equal to 50% of the excess revenue for the fiscal year;

(b) if there is an operating reserve differential for the fiscal year, from the general fund to the budget stabilization reserve fund an amount equal to 50% of the excess revenue for the fiscal year less the operating reserve differential; and

(c) if the ending fund balance of the general fund for the prior year is less than 6.8% of the amount of all general fund appropriations in the second year of the biennium, from the budget stabilization reserve fund to the general fund up to one-half of the amount in the budget stabilization reserve fund in excess of the amount of 2% of all general fund appropriations in the second year of the biennium in the subsequent fiscal year.

(6) *After a transfer is made pursuant to subsection (4) or (5), if the balance of the fund exceeds an amount equal to 4.5% of all general fund appropriations in the second year of the biennium in the subsequent fiscal year, any funds in excess of that amount must be transferred to the account established in [section 4 of House Bill No. 553] by August 16 of each fiscal year.*

~~(6)~~(7) For the purposes of this section, the following definitions apply:

(a) "Adjusted revenue" means general fund revenue for the prior fiscal year plus the growth amount.

(b) "Excess revenue" means the amount of general fund revenue, including transfers in, for the most recently completed fiscal year minus adjusted revenue.

(c) "Growth amount" means general fund revenue for the prior fiscal year multiplied by the growth rate.

(d) "Growth rate" means the average compound rate of growth of general fund revenue for the most recently completed 6 fiscal years.

~~(e) "Operating reserve differential" means a nonnegative difference from 8.3% of all general fund appropriations in the second year of the biennium minus the sum of the ending fund balance for the prior year and 50% of excess revenue of the prior year."~~

Section 18. Coordination instruction. If both [House Bill No. 175] and [this act] are passed and approved, then [section 4(4) of House Bill No. 175] must read:

"(4) The following money is appropriated for the biennium beginning July 1, 2019, to the office of budget and program planning from the designated state

fund, to be distributed to agencies when personnel vacancies do not occur or leave payout costs exceed agency resources:

General Fund	\$2,000,000
State Special Revenue	\$700,000
Federal Special Revenue	\$250,000
Proprietary Funds	\$50,000"

Section 19. Contingent voidness. (1) If [this act] is passed and approved and does not contain an appropriation for the study set forth in [section 5], [section 5 of this act] is void.

(2) If [this act] is passed and approved and does not contain an appropriation for the study set forth in [section 6], [section 6 of this act] is void.

Section 20. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2019.

(2) [Sections 2 and 5] and this section are effective May 1, 2019.

Section 21. Termination. (1) [Sections 5 and 6] terminate December 1, 2020.

(2) [Section 2] terminates August 15, 2019.

Approved May 8, 2019

CHAPTER NO. 399

[HB 723]

AN ACT REVISING INCOME TAX CREDIT LAWS; REQUIRING THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE TO REVIEW TAX CREDITS AND MAKE A RECOMMENDATION TO THE LEGISLATURE; PROVIDING CRITERIA FOR THE COMMITTEE TO USE WHEN REVIEWING TAX CREDITS; REPEALING EXPIRED TAX CREDITS; AMENDING SECTION 5-5-227, MCA; REPEALING SECTIONS 15-30-2358, 15-30-2365, 15-31-133, AND 15-31-150, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Tax credits subject to review by interim committee.

(1) The following tax credits must be reviewed during the biennium commencing July 1, 2019:

(a) the credit for income taxes imposed by foreign states or countries provided for in 15-30-2302;

(b) the credit for contractor's gross receipts provided for in 15-50-207;

(c) the credit for new or expanded manufacturing provided for in 15-31-124 through 15-31-127;

(d) the credit for installing an alternative energy system provided for in 15-32-201 through 15-32-203;

(e) the credit for energy-conserving expenditures provided for in 15-30-2319 and 15-32-109; and

(f) the credit for elderly homeowners and renters provided for in 15-30-2337 through 15-30-2341.

(2) The following tax credits must be reviewed during the biennium commencing July 1, 2021:

(a) the credit for commercial or net metering system investment provided for in Title 15, chapter 32, part 4;

(b) the credit for qualified elderly care expenses provided for in 15-30-2366;

(c) the credit for dependent care assistance and referral services provided for in 15-30-2373 and 15-31-131;

(d) the credit for contributions to a university or college foundation or endowment provided for in 15-30-2326, 15-31-135, and 15-31-136;

(e) the credit for donations to an educational improvement account provided for in 15-30-2334, 15-30-3110, and 15-31-158; and

(f) the credit for donations to a student scholarship organization provided for in 15-30-2335, 15-30-3111, and 15-31-159.

(3) The following tax credits must be reviewed during the biennium commencing July 1, 2023:

(a) the credit for providing disability insurance for employees provided for in 15-30-2367 and 15-31-132;

(b) the credit for installation of a geothermal system provided for in 15-32-115;

(c) the credit for property to recycle or manufacture using recycled material provided for in Title 15, chapter 32, part 6;

(d) the credit for converting a motor vehicle to alternative fuel provided for in 15-30-2320 and 15-31-137; and

(e) the credit for infrastructure use fees provided for in 17-6-316.

(4) The following tax credits must be reviewed during the biennium commencing July 1, 2025:

(a) the credit for preservation of historic buildings provided for in 15-30-2342 and 15-31-151;

(b) the credit for mineral or coal exploration provided for in Title 15, chapter 32, part 5;

(c) the credit for capital gains provided for in 15-30-2301;

(d) the credit for a new employee in an empowerment zone provided for in 15-30-2356 and 15-31-134;

(e) the credit for an oilseed crush facility provided for in 15-32-701; and

(f) the credit for unlocking state lands provided for in 15-30-2380.

(5) The following tax credits must be reviewed during the biennium commencing July 1, 2027:

(a) the biodiesel or biolubricant production facility credit provided for in 15-32-702;

(b) the biodiesel blending and storage credit provided for in 15-32-703;

(c) the adoption tax credit provided for in 15-30-2364;

(d) the credit for providing temporary emergency lodging provided for in 15-30-2381 and 15-31-171;

(e) the credit for hiring a registered apprentice or veteran apprentice provided for in 15-30-2357 and 15-31-173; and

(f) the earned income tax credit provided for in 15-30-2318.

(6) The revenue and transportation interim committee shall review the tax credits scheduled for review in the biennium of the next regular legislative session, including any individual or corporate income tax credits with an expiration or termination date that are not listed in this section, and make recommendations to the legislature about whether to eliminate or revise the credits. The legislature may extend the review dates by amending this section. The revenue and transportation interim committee shall review the credits using the following criteria:

(a) whether the credit changes taxpayer decisions, including whether the credit rewards decisions that may have been made regardless of the existence of the tax credit;

(b) to what extent the credit benefits some taxpayers at the expense of other taxpayers;

(c) whether the credit has out-of-state beneficiaries;

(d) the timing of costs and benefits of the credit and how long the credit is effective;

(e) any adverse impacts of the credit or its elimination and whether the benefits of continuance or elimination outweigh adverse impacts; and

(f) the extent to which benefits of the credit affect the larger economy.

Section 2. Section 5-5-227, MCA, is amended to read:

“5-5-227. Revenue and transportation interim committee – powers and duties – revenue estimating and use of estimates. (1) The revenue and transportation interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the state tax appeal board established in 2-15-1015 and for the department of revenue and the department of transportation and the entities attached to the departments for administrative purposes, except the division of the department of revenue that administers the Montana Alcoholic Beverage Code.

(2) (a) The committee must have prepared by December 1 for introduction during each regular session of the legislature in which a revenue bill is under consideration an estimate of the amount of revenue projected to be available for legislative appropriation.

(b) The committee may prepare for introduction during a special session of the legislature in which a revenue bill or an appropriation bill is under consideration an estimate of the amount of projected revenue. The revenue estimate is considered a subject specified in the call of a special session under 5-3-101.

(3) The committee’s estimate, as introduced in the legislature, constitutes the legislature’s current revenue estimate until amended or until final adoption of the estimate by both houses. It is intended that the legislature’s estimates and the assumptions underlying the estimates will be used by all agencies with responsibilities for estimating revenue or costs, including the preparation of fiscal notes.

(4) The legislative services division shall provide staff assistance to the committee. The committee may request the assistance of the staffs of the office of the legislative fiscal analyst, the legislative auditor, the department of revenue, and any other agency that has information regarding any of the tax or revenue bases of the state.

(5) *The committee shall review tax credits scheduled to expire as provided in [section 1].”*

Section 3. Repealer. The following sections of the Montana Code Annotated are repealed:

15-30-2358. Qualified research tax credit.

15-30-2365. Credit for day-care facilities.

15-31-133. Credit for day-care facilities.

15-31-150. Credit for research expenses and research payments.

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, part 23, and the provisions of Title 15, chapter 30, part 23, apply to [section 1].

Section 5. Coordination instruction. If both Senate Bill No. 111 and [this act] are passed and approved, then [section 1(3) of this act] must be amended to include:

“(f) the credit for contributions to a qualified endowment provided for in 15-30-2327 through 15-30-2329, 15-31-161, and 15-31-162.”

Section 6. Effective date. [This act] is effective on passage and approval.

Approved May 8, 2019

CHAPTER NO. 400

[HB 732]

AN ACT REQUIRING STATE REIMBURSEMENT OF WORKERS' COMPENSATION PREMIUMS FOR CERTAIN WORK-BASED LEARNING OPPORTUNITIES UNDER CERTAIN CONDITIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING FOR PAYMENT OUT OF THE WORKERS' COMPENSATION ADMINISTRATION FUND; PROVIDING AN APPROPRIATION FROM THE EMPLOYMENT SECURITY ACCOUNT FOR ADMINISTRATION; AMENDING SECTIONS 39-51-409 AND 39-71-201, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. State to reimburse certain premium costs for learning programs -- rulemaking. (1) (a) Subject to subsection (1)(b), the department of labor and industry shall reimburse a private employer who has hired a student enrolled in a high-quality work-based learning opportunity for the added costs of the employer's workers' compensation premium because of employing that student.

(b) The reimbursement is subject to available funds and an affirmation by the employer or another indication that the employer adheres to safe working conditions and that the first 2 hours, at a minimum, of the student's employment were devoted to safety instruction through a safety training program that is specific to the student's employment. The department may use funds in the workers' compensation administration fund provided for in 39-71-201 to reimburse the premiums under subsection (1)(a).

(2) The rules must provide the parameters of the program, the application process, and other components necessary to determine premium payments. The rules must describe the attributes of qualified high-quality work-based learning opportunities and provide for a declaration made under penalty of perjury by the employer of the student that the requested reimbursement is only for the increased premium costs due to the student employment.

(3) This section does not apply to a private secondary or postsecondary institution that employs students in work-study programs.

(4) For the purposes of this section, a "high-quality work-based learning opportunity":

(a) is a term-limited educational program registered with the department; and

(b) uses on-the-job training to develop marketable skills.

(5) The department may adopt rules to implement this section.

Section 2. Section 39-51-409, MCA, is amended to read:

"39-51-409. Employment security account. (1) There is an account in the state special revenue fund called the employment security account.

(2) Money deposited in the employment security account may be appropriated to the department for payment of:

(a) unemployment insurance benefits;

(b) expenses incurred in the administration of the unemployment insurance program;

(c) expenses incurred in collecting money deposited in the account;

(d) expenses incurred for the employment offices established in 39-51-307, including expenses for providing services to the business community;

(e) expenses incurred for the apprenticeship and training program *and for the administration of [section 1]*;

(f) expenses for displaced homemaker programs provided for under 39-7-305;

(g) expenses for department research and analysis functions that provide employment, wage, and economic data;

(h) expenses for department functions pertaining to wage and hour laws, prevailing wages, and collective bargaining; and

(i) principal, interest, and redemption premium on employment security revenue bonds authorized in section 5, Chapter 435, Laws of 2009.

(3) Except as provided in sections 6 and 12, Chapter 435, Laws of 2009, the department may transfer funds from the employment security account to the unemployment insurance fund account provided for in 39-51-402 upon receiving approval from the budget director that the transfer will not decrease the money in the account below the level appropriated by the legislature to provide for the employment services programs identified in subsection (2).

(4) The department may transfer appropriation authority in employment services programs between the federal special revenue and the state special revenue fund types."

Section 3. Section 39-71-201, MCA, is amended to read:

"39-71-201. Workers' compensation administration fund. (1) A workers' compensation administration fund is established out of which are to be paid upon lawful appropriation all costs of administering the Workers' Compensation Act, with the exception of the certification of independent contractors provided for in Title 39, chapter 71, part 4, the subsequent injury fund provided for in 39-71-907, and the uninsured employers' fund provided for in 39-71-503. *The department may use the workers' compensation administration fund to reimburse premiums for high-quality work-based learning programs, as provided in [section 1].* The department shall collect and deposit in the state treasury to the credit of the workers' compensation administration fund:

(a) all fees and penalties provided in 39-71-107, 39-71-205, 39-71-223, 39-71-304, 39-71-307, 39-71-315, 39-71-316, 39-71-401(6), 39-71-2204, 39-71-2205, and 39-71-2337; and

(b) all fees paid by an assessment on paid losses, plus administrative fines and interest provided by this section.

(2) For the purposes of this section, paid losses include the following benefits paid during the preceding calendar year for injuries covered by the Workers' Compensation Act without regard to the application of any deductible whether the employer or the insurer pays the losses:

(a) total compensation benefits paid; and

(b) except for medical benefits in excess of \$200,000 for each occurrence that are exempt from assessment, total medical benefits paid for medical treatment rendered to an injured worker, including hospital treatment and prescription drugs.

(3) Each plan No. 1 employer, plan No. 2 insurer subject to the provisions of this section, and plan No. 3, the state fund, shall file annually on March 1 in the form and containing the information required by the department a report of paid losses pursuant to subsection (2).

(4) Each employer enrolled under compensation plan No. 1, compensation plan No. 2, or compensation plan No. 3, the state fund, shall pay its proportionate share determined by the paid losses in the preceding calendar year of all costs of administering and regulating the Workers' Compensation Act, with the exception of the certification of independent contractors provided for in Title 39, chapter 71, part 4, the subsequent injury fund provided for in 39-71-907, and the uninsured employers' fund provided for in 39-71-503. In addition, compensation plan No. 3, the state fund, shall pay a proportionate

share of these costs based upon paid losses for claims arising before July 1, 1990.

(5) (a) Each employer enrolled under compensation plan No. 1 shall pay an assessment to fund administrative and regulatory costs. The assessment may be up to 4% of the paid losses paid in the preceding calendar year by or on behalf of the plan No. 1 employer. Any entity, other than the department, that assumes the obligations of an employer enrolled under compensation plan No. 1 is considered to be the employer for the purposes of this section.

(b) An employer formerly enrolled under compensation plan No. 1 shall pay an assessment to fund administrative and regulatory costs. The assessment may be up to 4% of the paid losses paid in the preceding calendar year by or on behalf of the employer for claims arising out of the time when the employer was enrolled under compensation plan No. 1.

(c) By April 30 of each year, the department shall notify employers described in subsections (5)(a) and (5)(b) of the percentage of the assessment that comprises the compensation plan No. 1 proportionate share of administrative and regulatory costs. The assessment provided for by this subsection (5) must be paid by the employer in:

(i) one installment due on July 1; or

(ii) two equal installments due on July 1 and December 31 of each year.

(d) If an employer fails to timely pay to the department the assessment under this section, the department may impose on the employer an administrative fine of \$500 plus interest on the delinquent amount at the annual interest rate of 12%. Administrative fines and interest must be deposited in the workers' compensation administration fund *and may be used to pay the reimbursement of premiums required under [section 1]*.

(6) (a) Compensation plan No. 3, the state fund, shall pay an assessment to fund administrative and regulatory costs attributable to claims arising before July 1, 1990. The assessment may be up to 4% of the paid losses paid in the preceding calendar year for claims arising before July 1, 1990. As required by 39-71-2352, the state fund may not pass along to insured employers the cost of the assessment for administrative and regulatory costs that is attributable to claims arising before July 1, 1990.

(b) The assessment must be paid in:

(i) one installment due on July 1; or

(ii) two equal installments due on July 1 and December 31 of each year.

(c) If the state fund fails to timely pay to the department the assessment under this section, the department may impose on the state fund an administrative fine of \$500 plus interest on the delinquent amount at the annual interest rate of 12%. Administrative fines and interest must be deposited in the workers' compensation administration fund.

(7) (a) Each employer insured under compensation plan No. 2 or plan No. 3, the state fund, shall pay a premium surcharge to fund administrative and regulatory costs. The premium surcharge must be collected by each plan No. 2 insurer and by plan No. 3, the state fund, from each employer that it insures. The premium surcharge must be stated as a separate cost on an insured employer's policy or on a separate document submitted to the insured employer and must be identified as "workers' compensation regulatory assessment surcharge". The premium surcharge must be excluded from the definition of premiums for all purposes, including computation of insurance producers' commissions or premium taxes. However, an insurer may cancel a workers' compensation policy for nonpayment of the premium surcharge. When collected, assessments may not constitute an element of loss for the purpose of establishing rates for

workers' compensation insurance but, for the purpose of collection, must be treated as a separate cost imposed upon insured employers.

(b) The amount to be funded by the premium surcharge may be up to 4% of the paid losses paid in the preceding calendar year by or on behalf of all plan No. 2 insurers and may be up to 4% of paid losses for claims arising on or after July 1, 1990, for plan No. 3, the state fund, plus or minus any adjustments as provided by subsection (7)(f). The amount to be funded must be divided by the total premium paid by all employers enrolled under compensation plan No. 2 or plan No. 3 during the preceding calendar year. A single premium surcharge rate, applicable to all employers enrolled in compensation plan No. 2 or plan No. 3, must be calculated annually by the department by not later than April 30. The resulting rate, expressed as a percentage, is levied against the premium paid by each employer enrolled under compensation plan No. 2 or plan No. 3 in the next fiscal year.

(c) On or before April 30 of each year, the department, in consultation with the advisory organization designated pursuant to 33-16-1023, shall notify plan No. 2 insurers and plan No. 3, the state fund, of the premium surcharge percentage to be effective for policies written or renewed annually on and after July 1 of that year.

(d) The premium surcharge must be paid whenever the employer pays a premium to the insurer. Each insurer shall collect the premium surcharge levied against every employer that it insures. Each insurer shall pay to the department all money collected as a premium surcharge within 20 days of the end of the calendar quarter in which the money was collected. If an insurer fails to timely pay to the department the premium surcharge collected under this section, the department may impose on the insurer an administrative fine of \$500 plus interest on the delinquent amount at the annual interest rate of 12%. Administrative fines and interest must be deposited in the workers' compensation administration fund *and may be used to pay the reimbursement of premiums required under [section 1]*.

(e) If an employer fails to remit to an insurer the total amount due for the premium and premium surcharge, the amount received by the insurer must be applied to the premium surcharge first and the remaining amount applied to the premium due.

(f) The amount actually collected as a premium surcharge in a given year must be compared to the assessment on the paid losses paid in the preceding year. Any excess amount collected must be deducted from the amount to be collected as a premium surcharge in the following year. The amount collected that is less than the assessed amount must be added to the amount to be collected as a premium surcharge in the following year.

(8) By July 1, an insurer under compensation plan No. 2 that paid benefits in the preceding calendar year but that will not collect any premium for coverage in the following fiscal year shall pay an assessment of up to 4% of paid losses paid in the preceding calendar year. The department shall determine and notify the insurer by April 30 of each year of the amount that is due by July 1.

(9) An employer that makes a first-time application for permission to enroll under compensation plan No. 1 shall pay an assessment of \$500 within 15 days of being granted permission by the department to enroll under compensation plan No. 1.

(10) The department shall deposit all funds received pursuant to this section in the state treasury, as provided in this section.

(11) The administration fund must be debited with expenses incurred by the department in the general administration of the provisions of this chapter,

including the salaries of its members, officers, and employees and the travel expenses of the members, officers, and employees, as provided for in 2-18-501 through 2-18-503, incurred while on the business of the department either within or without the state. *Reimbursement of premiums required under [section 1] by the workers' compensation administration fund also is a debit on the fund.*

(12) Disbursements from the administration fund must be made after being approved by the department upon claim for disbursement.

(13) The department may assess and collect the workers' compensation regulatory assessment surcharge from uninsured employers, as defined in 39-71-501, that fail to properly comply with the coverage requirements of the Workers' Compensation Act. Any amounts collected by the department pursuant to this subsection must be deposited in the workers' compensation administration fund."

Section 4. Appropriation. There is appropriated \$15,000 from the employment security account provided for in 39-51-409 to the department of labor and industry for use in administering the program in [section 1].

Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 39, and the provisions of Title 39 apply to [section 1].

Section 6. Effective date. [This act] is effective July 1, 2019.

Section 7. Termination. [This act] terminates June 30, 2023.

Approved May 8, 2019

CHAPTER NO. 401

[HB 316]

AN ACT INCREASING THE AMOUNT OF SQUARE FOOTAGE THAT MAY BE LEASED WITHOUT LEGISLATIVE APPROVAL; AMENDING SECTION 2-17-101, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-17-101, MCA, is amended to read:

"2-17-101. Allocation of space -- leasing -- definition. (1) The department of administration shall determine the space required by state agencies other than the university system and shall allocate space in buildings owned or leased by the state, based on each agency's need. To efficiently and effectively allocate space, the department shall identify the amount, location, and nature of space used by each agency, including summary information on average cost per square foot for each municipality, and report this to the office of budget and program planning and to the legislative fiscal analyst by September 1 of each even-numbered year. The report must be provided in an electronic format.

(2) An agency requiring additional space shall notify the department. The department, in consultation with the agency, shall determine the amount and nature of the space needed and locate space within a building owned or leased by the state, including buildings in Helena and in other areas, to meet the agency's requirements. If space is not available in a building owned or leased by the state, the department shall locate space to be leased in an appropriate existing building or a build-to-lease building, including buildings in Helena and in other areas, or recommend alternatives to leasing, such as remodeling or exchanging space with another agency. A state agency may not lease, rent, or purchase real property without prior approval of the department.

(3) (a) The location of the chambers for the house of representatives must be determined in the sole discretion of the house of representatives. The location of the chambers for the senate must be determined in the sole discretion of the senate.

(b) Subject to 2-17-108, the department, with the advice of the legislative council, shall allocate other space for the use of the legislature, including but not limited to space for committee rooms and legislative offices.

(4) The department shall consolidate the offices of state agencies in a single, central location within a municipality whenever the consolidation would result in a cost savings to the state while permitting sufficient space and facilities for the agencies. The department may purchase, lease, or acquire, by exchange or otherwise, land and buildings in a municipality to achieve consolidation. Offices of the law enforcement services division and motor vehicle division of the department of justice are exempted from consolidation.

(5) Any lease for more than ~~40,000~~ 45,000 square feet or for a term of more than 20 years must be submitted as part of the long-range building program and approved by the legislature before the department of administration may proceed with the lease. Multiple leases in the same building entered into within any 60-day period are to be aggregated for purposes of this threshold calculation. When immediate relocation of agency employees is required due to a public exigency, the requirements of this subsection do not apply, but the new lease must be reported as required by subsection (1).

(6) The department shall include language in every lease providing that if funds are not appropriated or otherwise made available to support continued performance of the lease in subsequent fiscal periods, the lease must be canceled.

(7) "Public exigency" means that due to unforeseen circumstances a facility occupied by state employees is uninhabitable due to immediate conditions that adversely impact the health or safety of the occupants of the facility."

Section 2. Effective date. [This act] is effective July 1, 2019.

Section 3. Termination. [This act] terminates June 30, 2023.

Approved May 9, 2019

CHAPTER NO. 402

[HB 351]

ANACTREVISINGEDUCATIONLAWSTOSUPPORTTRANSFORMATIONAL LEARNING; PROVIDING INCENTIVES FOR SCHOOL DISTRICTS TO IMPLEMENT TRANSFORMATIONAL LEARNING; SPECIFYING A QUALIFYING PROCESS FOR TRANSFORMATIONAL LEARNING PLANS; PROVIDING DEFINITIONS; PROVIDING LIMITED LEVY AND TRANSFER AUTHORITY TO DISTRICTS IMPLEMENTING A QUALIFIED TRANSFORMATIONAL LEARNING PLAN; ENSURING TAXPAYER TRANSPARENCY IN IMPOSITION OF LEVY INCREASES; PROVIDING RULEMAKING AUTHORITY; PROVIDING AN APPROPRIATION; AMENDING SECTION 20-9-116; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Transformational learning – legislative intent. The legislature finds and declares pursuant to Article X, section 1, of the 1972 Montana constitution that transformational learning is an appropriate means

of fulfilling the people's goal of developing the full educational potential of each person. The provision of and participation in transformational learning under [sections 1 and 2] and in compliance with accreditation standards of the board of public education is constitutionally compliant and protected. The legislature declares that any public or private regulation that discriminates against a district or pupil participating in transformational learning is inconsistent with constitutional goals and guarantees under Article X of the Montana constitution.

Section 2. Incentives for creation of transformational learning programs. (1) (a) A school district as defined in 20-6-101 that satisfies the conditions of subsection (2) and is qualified by the board of public education pursuant to subsection (3) is eligible for a 4-consecutive-year provision of the transitional funding and flexibilities in subsections (4) and (5).

(b) A school district may be qualified by the board of public education for no more than one 4-consecutive-year provision of transitional funding and flexibilities in any 8-year period.

(2) To qualify for the transitional funding and flexibilities in subsections (4) and (5), the board of trustees of a district shall submit an application that has been approved by motion of the board of trustees and signed by the presiding officer to the board of public education for approval of a transformational learning program on a form provided by the superintendent of public instruction. The school board's application must:

(a) identify the number of full-time equivalent educators meeting the criteria of 20-9-327(3) who will participate in the district's transformational learning program, with full-time equivalence calculated and reported by the district based on the planned portion of each qualifying educator's full-time equivalent assignment that is dedicated to the district's transformational learning program;

(b) include the district's definition of proficiency within the meaning of that term as used in 20-9-311(4)(d). The definition must not require seat time as a condition or other element of determining proficiency. The definition must be incorporated in the district's policies and must be used for purposes of determining content and course mastery and other progress, promotion from grade to grade, grades, and graduation for pupils enrolled in the district's transformational learning program.

(c) include a strategic plan with appropriate planning horizons for implementation, measurable objectives to ensure accountability, and planned strategies to:

(i) develop a transformational learning plan for each participating pupil that honors individual interests, passions, strengths, needs, and culture, and that is rooted in relationships with teachers, family, peers, and community members;

(ii) embed community-based, experiential, online, and work-based learning opportunities and foster a learning environment that incorporates both face-to-face and virtual connections;

(iii) provide effective professional development to assist employees in transitioning to a transformational learning model; and

(iv) ensure equality of educational opportunity to participate by all pupils of the district.

(3) On an annual basis, the board of public education shall:

(a) establish by rule the opening and closing dates for receipt of applications and annual reports;

(b) qualify districts that submit an application meeting the requirements of subsection (2) for the funding in subsection (4) and the flexibilities in

subsection (5) until the annual appropriation is exhausted, after which further applications, including first-time applications and annual reports requesting an expansion of a previously approved plan, are to be deferred for consideration in a subsequent year, in the order of date received, if and when additional funds become available for distribution;

(c) require each participating school district to submit an annual report demonstrating continued qualification for funding under this section and including a report of progress toward measurable objectives under the school district's transformational learning plan. The school district shall include any decrease or requested increase in the number of participating full-time equivalent educators under subsection (2)(a) for adjustments to its funding. Any increase in funding based on requested increased levels of participation under subsection (2)(a) must be determined in the order of date received among all first-time applications and annual reports requesting an expansion of a previously approved plan and must be contingent on the availability of funds within any appropriation of the legislature. An application deferred for consideration in a subsequent year due to lack of funding must be annually updated each year after more than 1 full fiscal year has passed from the date of original submission of the application in order for the application to retain its priority by original date received.

(d) on or before September 15 of even-numbered years, report to the education interim committee on the progress made by districts operating under approved transformational learning plans.

(4) (a) Except as provided in subsection (4)(d), for a period of 4 consecutive fiscal years following the fiscal year in which a district is qualified by the board of public education and contingent on continued compliance with annual reporting requirements under subsection (3), the superintendent of public instruction shall provide a transformational learning aid payment to the district equivalent to 50% of the quality educator payment defined in 20-9-306 from the immediate prior fiscal year multiplied by the number of the district's full-time equivalent educators reported under subsection (2)(a) of this section.

(b) The payment under this subsection (4) must be distributed directly to the school district's flexibility fund established under 20-9-543 no later than June 30 of fiscal year 2020 and by October 1 of each year beginning fiscal year 2021 by the superintendent of public instruction. The money must be expended by the district only for the purposes set forth in the district's approved transformational learning program.

(c) For fiscal years 2020 and 2021, a school district may not receive more than 25% of the total amount of payments made under this subsection.

(d) Applications qualified by the board of public education in fiscal year 2020 must be funded beginning in fiscal year 2020.

(5) During each year that a school district remains qualified for funding under subsection (4), the district's trustees may:

(a) if the obligations of transparency set forth in 20-9-116 are met, levy an annual permissive property tax not to exceed 100% of any funds distributed to the district under subsection (4). Proceeds of the levy must be deposited in the district's flexibility fund established under 20-9-543 and must be expended by the district only for the purposes of the district's approved transformational learning plan.

(b) transfer state or local revenue from any budgeted or nonbudgeted fund, other than the debt service fund or retirement fund, to the district's flexibility fund.

(6) (a) Any funds transferred pursuant to subsection (5)(b) may be expended by the district solely for the purposes of implementing the district's approved

transformational learning plan. Any transfers of funds are not considered expenditures to be applied against budget authority.

(b) Any transfers that are not expended for the purposes of implementing the district's approved transformational learning plan within 2 full school fiscal years after the funds are transferred must be transferred back to the originating fund from which the revenue was transferred.

(c) The intent of subsection (5)(b) and this subsection (6) is to increase the flexibility and efficiency of school districts without an increase in local taxes. In furtherance of this intent, if transfers of funds are made from any school district fund supported by a nonvoted levy, the district may not increase its nonvoted levy for the purpose of restoring the amount of funds transferred.

(7) The present law base calculated for K-12 local assistance under Title 17, chapter 7, part 1, must include transformational learning aid as defined in subsection (8).

(8) For the purposes of this title, the following definitions apply:

(a) "Transformational learning" means a flexible system of pupil-centered learning that is designed to develop the full educational potential of each pupil that:

- (i) is customized to address each pupil's strengths, needs, and interests;
- (ii) includes continued focus on each pupil's proficiency over content; and
- (iii) actively engages each pupil in determining what, how, when, and where each pupil learns.

(b) "Transformational learning aid" means 50% of the quality educator payment defined in 20-9-306 multiplied by:

(i) for fiscal year 2020, 5% of the statewide number of full-time equivalent educators from fiscal year 2019 calculated as provided in 20-9-327;

(ii) for fiscal year 2021, 7.5% of the statewide number of full-time equivalent educators from fiscal year 2020 calculated as provided in 20-9-327; and

(iii) for fiscal year 2022 and subsequent fiscal years, 10% of the statewide number of full-time equivalent educators from the fiscal year immediately preceding the year to which distribution of transformational aid applies calculated as provided in 20-9-327.

Section 3. Section 20-9-116, MCA, is amended to read:

"20-9-116. Resolution of intent to increase nonvoted levy -- notice.

(1) The trustees of a school district shall adopt a resolution ~~no later than June 1 in fiscal year 2017 only and~~ no later than March 31 ~~of in fiscal year 2018 and subsequent fiscal years~~ *each fiscal year* and provide notice pursuant to subsection (2) whenever the trustees intend to impose an increase in a nonvoted levy in the ensuing school fiscal year for the purposes of funding any of the funds listed below:

- (a) the tuition fund under 20-5-324;
- (b) the adult education fund under 20-7-705;
- (c) the building reserve fund under 20-9-502 and 20-9-503;
- (d) the transportation fund under 20-10-143 and 20-10-144; ~~and~~
- (e) the bus depreciation reserve fund under 20-10-147; ~~and~~
- (f) *the flexibility fund established in 20-9-543 for the purposes in [section 2].*

(2) The trustees shall provide notice of intent to impose an increase in a nonvoted levy for the ensuing school fiscal year by:

(a) adopting a resolution of intent to impose an increase in a nonvoted levy that includes, at a minimum, the estimated number of increased or decreased mills to be imposed and the estimated increased or decreased revenue to be raised compared to nonvoted levies under (1)(a) through ~~(1)(e)~~ *(1)(f)* imposed in the current school fiscal year and, based on the district's taxable valuation most recently certified by the department of revenue under 15-10-202, the

estimated impacts of the increase or decrease on a home valued at \$100,000 and a home valued at \$200,000; and

(b) publishing a copy of the resolution in a newspaper that will give notice to the largest number of people of the district as determined by the trustees and posting a copy of the resolution to the school district's website."

Section 4. Appropriation. There is appropriated \$2.6 million from the general fund to the office of public instruction for the biennium beginning July 1, 2019, for distributions of transformational learning aid to districts pursuant to [section 2(4)]. The superintendent shall allocate a sufficient portion of the appropriation for distributions in fiscal year 2020 and fiscal year 2021 that are estimated to allow for levels of district participation within this biennial appropriation and pursuant to the definition of "transformational learning aid" in [section 2(8)].

Section 5. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 20, chapter 7, and the provisions of Title 20, chapter 7, apply to [sections 1 and 2].

Section 6. Effective date. [This act] is effective on passage and approval.

Section 7. Termination. [This act] terminates June 30, 2027.

Approved May 9, 2019

CHAPTER NO. 403

[HB 356]

AN ACT CHANGING THE COMPOSITION OF THE COMMITTEE ON TELECOMMUNICATIONS ACCESS SERVICES FOR PERSONS WITH DISABILITIES; AMENDING SECTION 2-15-2212, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-2212, MCA, is amended to read:

"2-15-2212. Committee on telecommunications access services for persons with disabilities -- composition -- allocation. (1) There is a committee on ~~Montana~~ telecommunications access services for persons with disabilities.

(2) The committee consists of 13 members appointed by the governor as follows:

(a) four members who are persons with disabilities, two of whom must be deaf or hard-of-hearing;

(b) two members who are not persons with disabilities, one of whom must be engaged in a business other than a business in the telecommunications industry and one of whom must be a senior citizen;

(c) one member from the department of public health and human services;

(d) one member from ~~the largest service provider in Montana~~ *a public safety answering point, as defined in 10-4-101, who has knowledge of emergency communications issues for individuals who are deaf or hard-of-hearing;*

(e) one member from an independent service provider;

(f) one member from an interLATA interexchange carrier;

(g) one member from the public service commission;

(h) one member who is a licensed audiologist; and

(i) one member from the department of administration.

(3) The committee is allocated to the department of public health and human services for administrative purposes only as provided in 2-15-121."

Section 2. Effective date. [This act] is effective on passage and approval.
Approved May 9, 2019

CHAPTER NO. 404

[HB 369]

AN ACT GENERALLY REVISING CRIMINAL JUSTICE LAWS; CREATING A CRIMINAL JUSTICE OVERSIGHT COUNCIL; PROVIDING FOR APPOINTMENT OF MEMBERS; PROVIDING FOR COUNCIL DUTIES; REQUIRING THE DEPARTMENT OF CORRECTIONS TO PROVIDE CLERICAL AND ADMINISTRATIVE SERVICES TO THE COUNCIL; ELIMINATING THE MULTIAGENCY REENTRY TASK FORCE; PROVIDING AN APPROPRIATION; REPEALING SECTIONS 46-23-901, 46-23-902, AND 46-23-903, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Montana criminal justice oversight council – duties – membership. (1) There is a Montana criminal justice oversight council. The council consists of 16 members as follows:

(a) (i) two members of the house of representatives, one selected by the speaker of the house and one by the house minority leader; and

(ii) two members of the senate, one selected by the president of the senate and one selected by the senate minority leader;

(b) one district court judge selected by the chief justice of the Montana supreme court;

(c) the director and the deputy director of the department of corrections;

(d) a county sheriff and a county attorney appointed by the attorney general; and

(e) the following individuals appointed by the governor:

(i) a member of a state-recognized or federally recognized Indian tribe located within the boundaries of the state of Montana who has expertise in criminal justice;

(ii) one member of the board of pardons and parole;

(iii) one member who represents the office of state public defender;

(iv) one representative of crime victims;

(v) one representative of civil rights advocates; and

(vi) two representatives of community corrections providers, one of whom must represent a treatment facility and one of whom must represent a prerelease center.

(2) The department of corrections shall provide clerical and administrative staff services to the council.

(3) The council shall elect a presiding officer.

(4) The council shall:

(a) review the recommendations of the commission on sentencing established in Chapter 343, Laws of 2015;

(b) receive and analyze data collected by agencies and entities charged with implementing the recommendations of the commission on sentencing and that are collecting data during the implementation and management of specific recommendations;

(c) assess outcomes from the recommendations the commission on sentencing has made and corresponding criminal justice reforms; and

(d) request, receive, and review data and report on performance outcome data relating to criminal justice reform.

(5) Data evaluation performed by the council must:

(a) assess the current electronic records utilized by criminal justice agencies;

(b) review and list all variables collected in each agency's information management system;

(c) establish a baseline for historical data comparisons;

(d) determine whether data is linked to specific offenders through a unique identifying factor;

(e) review archival data and agencies' data retention policies;

(f) determine whether presentence investigation reports are completed electronically in the department of corrections' case management system within established statutory timelines;

(g) review any established data protocols for pretrial services;

(h) assess if the data collected or recommended to be collected on offenders and programs will provide criminal justice agencies, the legislature, and the public adequate information to determine whether correctional programs produce standardized outcomes across the state and are an efficient use of state resources; and

(i) review and suggest improvements for behavioral health screening instruments and other screening instruments as needed to ensure the integrity of data that is captured in criminal justice agencies' information management systems.

(6) The council shall examine the feasibility of creating and maintaining a public portal through which criminal justice data can be accessed, including data on court case filings, correctional populations, and historical and legacy data sets.

(7) The council shall submit by September 1 of each even-numbered year a biennial report to the governor and legislature, as provided in 5-11-210. The report must include:

(a) a description of the council's proceedings since the previous report;

(b) a summary of savings from criminal justice reforms and recommendations for how the savings should be reinvested to reduce recidivism;

(c) a description of performance measures and outcomes related to criminal justice reforms; and

(d) a narrative of the council's progress on establishing data collection and uniformity standards and any changes that have been implemented as a result of the council's work.

(8) The council may appoint a working group to track any legislation resulting from criminal justice reforms and to perform other detailed analysis as directed by the council. If appointed, the working group shall meet regularly and report to the council as the council requires. The working group may include representatives of criminal justice agencies and key constituencies that are not members of the council.

(9) Using the process established in legislative rules for executive agency legislative requests, the council may request legislation to enact changes to the state's criminal justice system that the council finds necessary.

(10) The judicial branch, the department of corrections, the department of public health and human services, the board of pardons and parole, and the legislative services and fiscal divisions shall provide data and information as requested by the council.

(11) Appointments made under subsection (1) must be made within 60 days after [the effective date of this act]. A vacancy on the council must be filled in the manner of the original appointment.

(12) Council members must be reimbursed for travel expenses as provided in 2-18-501 through 2-18-503. Members of the council who are full-time salaried officers or employees of this state or any political subdivision are entitled to their regular compensation. Legislative members must be compensated as provided in 5-2-302.

(13) The council shall report to the law and justice interim committee and the legislative finance committee as requested.

Section 2. Repealer. The following sections of the Montana Code Annotated are repealed:

46-23-901. Legislative findings -- definition.

46-23-902. Multiagency reentry task force.

46-23-903. Department duties.

Section 3. Appropriation. There is appropriated \$20,000 from the general fund to the department of corrections for each year of the biennium beginning July 1, 2019, for the criminal justice oversight council established in [section 1].

Section 4. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 53, chapter 1, part 2, and the provisions of Title 53, chapter 1, part 2, apply to [section 1].

Section 6. Effective date. [This act] is effective July 1, 2019.

Approved May 9, 2019

CHAPTER NO. 405

[HB 407]

AN ACT REVISING THE FEE FOR A RESIDENT WOLF LICENSE; AMENDING SECTION 87-2-523, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-2-523, MCA, is amended to read:

“87-2-523. Class E-1–resident wolf license. (1) Except as otherwise provided in this chapter, a person who is a resident, as defined in 87-2-102, and who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is issued, upon payment of a fee of ~~\$19~~ **\$12**, may receive a Class E-1 license that entitles a holder who is 12 years of age or older to hunt a wolf and possess the carcass of the wolf as authorized by commission rules.

(2) A person who purchases a license pursuant to this section after August 31 may not use the license until 24 hours after the license is issued.

(3) Fees collected pursuant to this section must be deposited and used in accordance with 87-1-623.”

Section 2. Effective date. [This act] is effective March 1, 2020.

Approved May 9, 2019

CHAPTER NO. 406

[HB 423]

AN ACT PROVIDING A CAMPING FEE DISCOUNT AT STATE PARKS FOR VETERANS; AND AMENDING SECTION 23-1-105, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 23-1-105, MCA, is amended to read:

“23-1-105. Fees and charges – use of motor vehicle registration fee. (1) The department may levy and collect reasonable fees or other charges for the use of privileges and conveniences that may be provided and to grant concessions that it considers advisable, except as provided in subsections (2) and (6). All money derived from the activities of the department, except as provided in subsection (5), must be deposited in the state treasury in a state special revenue fund to the credit of the department. [This state special revenue fund is subject to legislative fund transfer.]

(2) Overnight camping fees established by the department under subsection (1) must be discounted 50% for a campsite rented by a person who is a resident of Montana, as defined in 87-2-102, and *is: either*

(a) 62 years of age or older; *or*

(b) certified as disabled in accordance with rules adopted by the department;
or

(c) *a veteran of the armed forces. While camping at a discounted rate, the veteran shall carry proof of the person's veteran status, such as a DD form 214, U.S. department of veterans affairs identification card, or a driver's license indicating the person's veteran status.*

(3) For a violation of any fee collection rule involving a vehicle, the registered owner of the vehicle at the time of the violation is personally responsible if an adult is not in the vehicle at the time the violation is discovered by an authorized officer. A defense that the vehicle was driven into the fee area by another person is not allowable unless it is shown that at that time, the vehicle was being used without the consent of the registered owner.

(4) Money received from the collection of fees and charges is subject to the deposit requirements of 17-6-105(6) unless the department has submitted and received approval for a modified deposit schedule pursuant to 17-6-105(8).

(5) There is a fund of the enterprise fund type, as defined in 17-2-102(2)(a), for the purpose of managing state park visitor services revenue. The fund is to be used by the department to serve the recreating public by providing for the obtaining of inventory through purchase, production, or donation and for the sale of educational, commemorative, and interpretive merchandise and other related goods and services at department sites and facilities. The fund consists of money from the sale of educational, commemorative, and interpretive merchandise and other related goods and services and from donations. Gross revenue from the sale of educational, commemorative, and interpretive merchandise and other related goods and services must be deposited in the fund. All interest and earnings on money deposited in the fund must be credited to the fund for use as provided in this subsection.

(6) In recognition of the fact that individuals support state parks through the payment of certain motor vehicle registration fees, persons who pay the fee provided for in 61-3-321(19)(a) may not be required to pay a day-use fee for access to state parks. Other fees for the use of state parks and fishing access sites, such as overnight camping fees, are still chargeable and may be collected by the department.

(7) Any increase in the motor vehicle registration fee collected pursuant to 61-3-321(19)(a) on or after January 1, 2012, that is dedicated to state parks must be used by the department for maintenance and operation of state parks. (Bracketed language in subsection (1) terminates June 30, 2019--sec. 28, Ch. 6, Sp. L. November 2017.)"

Approved May 9, 2019

CHAPTER NO. 407

[HB 441]

AN ACT ELIMINATING TIMBER CONSERVATION LICENSES FOR STATE LANDS; REPEALING SECTION 77-5-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. The following section of the Montana Code Annotated is repealed:

77-5-208. Timber conservation license in lieu of sale.

Section 2. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun for the offering and providing of a timber conservation license before [the effective date of this act].

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 9, 2019

CHAPTER NO. 408

[HB 525]

AN ACT REVISING THE TERMINATION DATE FOR THE HIGH-PERFORMANCE BUILDING PROGRAM; AMENDING SECTION 5, CHAPTER 422, LAWS OF 2015; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5, Chapter 422, Laws of 2015, is amended to read:

“Section 5. Termination. [This act] terminates June 30, ~~2021~~ 2029.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 9, 2019

CHAPTER NO. 409

[HB 576]

AN ACT REVISING LAWS RELATED TO GIFTS TO SCHOOL DISTRICTS AND THE ENDOWMENT FUND; PROVIDING TRUSTEES INCREASED FLEXIBILITY FOR GIFTS NOT OTHERWISE SPECIFIED BY THE DONOR; AMENDING SECTION 20-9-604, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-9-604, MCA, is amended to read:

“20-9-604. Gifts, legacies, devises, and administration of endowment fund. (1) The trustees of a district may accept gifts, legacies, and devises,

subject to the conditions imposed by the deed of the donor or the will of the testator or without any conditions imposed. Unless otherwise specified by the donor, devisor, or testator, when a district receives a gift, legacy, or devise, the trustees ~~shall~~ *may* deposit the gift, legacy, devise, or the proceeds in ~~an endowment fund~~ *any budgeted or nonbudgeted fund at the discretion of the trustees and may thereafter transfer any portion of the gift, legacy, devise, or proceeds to any other fund at the discretion of the trustees.*

(2) If the trustees accept a gift, legacy, or devise pursuant to subsection (1) and if the donor, devisor, or testator specifies the gift, legacy, or devise for an endowment, the trustees shall deposit the gift, legacy, devise, or proceeds in an endowment fund. The trustees and shall administer the endowment fund so as to preserve the principal from loss, and only the income from the fund may be appropriated for any purpose.

~~(2) Unless the conditions of the endowment instrument require an immediate disbursement of the money, the money~~ Money deposited in the endowment fund must be invested by the trustees according to the provisions of the Uniform Management of Institutional Funds Act, Title 72, chapter 30.

~~(3) All interest collected on the deposits or investments must be credited to the endowment fund. No portion of the endowment fund may be loaned to the district, nor may any money of the fund be invested in warrants of the district.~~

~~(4)~~(3) Whenever a district has been abandoned, the endowment fund of the abandoned district must be transferred and placed in the endowment fund in the district to which the territory is attached.

~~(5)~~(4) As the custodian of the endowment fund, the county treasurer is liable on the treasurer's official bond for the endowment fund of any district of the county. By July 20, the county treasurer shall report to the trustees of each district on the condition of its endowment fund, including the status of the investments that have been made with the money of the fund. The county treasurer shall also include the endowment fund in the treasurer's reports to the board of county commissioners.

~~(6)~~(5) The trustees of any district having an endowment fund shall provide suitable memorials for all persons or associations of persons making gifts to the district that become a part of the endowment fund.

(6) The trustees of a district that previously deposited donated funds in an endowment fund without specific instruction by the donor, devisor, or testator may move the donated funds and any accumulated interest to any other budgeted or nonbudgeted fund of the district and may spend donated funds and any accumulated interest unless restricted by condition imposed by the donor, devisor, or testator.

(7) The legislature encourages school district trustees to adopt a gift acceptance policy to determine the suitability of accepting gifts under this section."

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 9, 2019

CHAPTER NO. 410

[HB 578]

AN ACT ALLOWING ELIGIBLE SURPLUS LINES INSURERS TO PROVIDE EXCESS COVERAGE FOR CERTAIN TYPES OF DISABILITY INCOME INSURANCE; DEFINING "DISABILITY INCOME INSURANCE" FOR

SURPLUS LINES; AMENDING SECTIONS 33-2-301 AND 33-2-307, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-2-301, MCA, is amended to read:

“33-2-301. Short title – purpose – definitions. (1) This part constitutes and may be referred to as “The Surplus Lines Insurance Law”.

(2) The purpose of this part is to:

(a) protect persons seeking insurance in this state;

(b) permit surplus lines insurance to be placed with reputable and financially sound unauthorized insurers and to be exported from this state pursuant to this part;

(c) establish a system of regulation that will permit orderly access to surplus lines insurance in this state and encourage authorized insurers to provide new and innovative types of insurance to consumers in this state; and

(d) protect revenues of this state.

(3) As used in this part, the following definitions apply:

(a) “Affiliated” means that a person directly or indirectly controls, is controlled by, or is under common control with the insured.

(b) “Affiliated group” means any group of persons that are affiliated.

(c) “Approved risk list” means the list approved by the commissioner of the kinds of insurance presumed unobtainable from authorized insurers when Montana is the home state of the insured.

(d) “Authorized insurer” means an insurer authorized pursuant to 33-2-101 to transact insurance in this state.

(e) (i) “Business entity” means a corporation, a limited liability company, an association, a partnership, a limited liability partnership, or other legal entity.

(ii) The term does not include an individual.

(f) “Control”, including the terms “controlled by” and “under common control with”, means that:

(i) the person directly or indirectly or acting through one or more other persons owns, controls, or has the power to vote 25% or more of any class of voting securities of a business entity; or

(ii) the person controls in any manner the election of a majority of the directors or trustees of a business entity.

(g) (i) “Disability income insurance” has the meaning provided in 33-1-235 for:

(A) *individuals employed in professional sports or the entertainment industry; or*

(B) *a business entity insuring a principal to cover liability or provide assurance for the business entity’s loans or contracts.*

(ii) *Disability income insurance sold on the surplus lines market must be unavailable from or limited by an authorized insurer.*

~~(g)(h)~~ “Eligible surplus lines insurer” means an unauthorized insurer that is eligible to issue surplus lines insurance under 33-2-307.

~~(h)(i)~~ “Exempt commercial purchaser” has the meaning provided in 33-2-318.

~~(i)(j)~~ “Export” means to place surplus lines insurance with an unauthorized insurer.

~~(j)(k)~~ “Home state” means, with respect to an insured:

(i) the state in which the insured maintains its principal place of business or, in the case of an individual, the individual’s principal residence;

(ii) if 100% of the insured risk is located outside the state referred to in subsection ~~(3)(j)(i)~~ ~~(3)(k)(i)~~, the state with the greatest allocated percentage of the insured's taxable premium for that surplus lines insurance contract;

(iii) if more than one insured from an affiliated group are named insureds on a single surplus lines insurance contract, the home state as determined under subsection ~~(3)(j)(i)~~ ~~(3)(k)(i)~~ or ~~(3)(j)(ii)~~ ~~(3)(k)(ii)~~ for the member of the affiliated group that has the largest percentage of premium attributed to it under the surplus lines insurance contract; or

(iv) if a group policyholder pays 100% of the premium from its own funds, the home state of the group policyholder as determined under subsection ~~(3)(j)(i)~~ ~~(3)(k)(i)~~ or, if a group policyholder does not pay 100% of the premiums from its own funds, the home state of the group member as determined under subsection ~~(3)(j)(i)~~ ~~(3)(k)(i)~~.

~~(k)(l)~~ "Independently procured insurance" means surplus lines insurance procured directly by an insured from an eligible surplus lines insurer.

~~(j)(m)~~ "Multistate risk" means a risk covered by an unauthorized insurer with insured exposures in more than one state.

~~(m)(n)~~ "Natural disaster multiperil insurance" means any bundled flood, earthquake, and landslide insurance that may be sold as surplus lines insurance.

~~(n)(o)~~ "Principal place of business" means the state where the insured business maintains its headquarters and where the insured's high-level officers direct, control, and coordinate the business activities of the insured.

~~(o)(p)~~ "Principal residence" means the state where an individual insured resides for the greatest number of days during a calendar year or, if the insured's principal residence is located outside of any state, the state to which the greatest percentage of the insured's taxable premium for that insurance contract is located.

~~(p)(q)~~ "Producing insurance producer" means a Montana-licensed property and casualty insurance producer dealing directly with a person seeking insurance.

~~(q)(r)~~ "Qualified risk manager" has the meaning provided in 33-2-319.

~~(r)(s)~~ "Single-state risk" means a risk covered by an unauthorized insurer with exposures in only one state.

~~(s)(t)~~ "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.

~~(t)(u)~~ (i) "Surplus lines insurance" means any property or casualty insurance permitted in a state to be placed directly or through a surplus lines insurance producer with an unauthorized insurer eligible to accept the insurance. The term includes independently procured insurance.

(ii) The term does not include the kinds of insurance exempted under 33-2-317.

~~(u)(v)~~ "Surplus lines insurance producer" means an individual or business entity licensed under 33-2-305 to place surplus lines insurance on risks resident, located, or to be performed in this state with unauthorized insurers eligible to accept the insurance.

~~(v)(w)~~ "Unauthorized insurer" means, with respect to a state, an insurer not authorized to transact the business of insurance in the state. The term includes an insurance exchange authorized under the laws of another state. The term does not include a risk retention group, as that term is defined in the Liability Risk Retention Act of 1986, 15 U.S.C. 3901(a)(4)."

Section 2. Section 33-2-307, MCA, is amended to read:

“33-2-307. Requirements for eligible surplus lines insurers – list of eligible surplus lines insurers. (1) If an unauthorized insurer is domiciled in any state, a surplus lines insurance producer may not place insurance with that unauthorized insurer unless, at the time of placement, the unauthorized insurer:

(a) is authorized to issue the same kind of property or casualty insurance in its domiciliary jurisdiction; and

(b) maintains capital and surplus or its equivalent under the laws of its state of domicile, which equals the greater of:

(i) the minimum capital and surplus requirements of 33-2-109 and 33-2-110; or

(ii) \$15 million. An insurer possessing less than \$15 million capital and surplus may satisfy the requirements of this subsection upon an affirmative finding of acceptability by the commissioner. The commissioner’s finding must be based ~~upon such~~ on factors as *that include:*

(A) the quality of management, capital, and surplus of a parent company;

(B) company underwriting profit and investment income trends;

(C) market availability; and

(D) company record and reputation within the industry.

(2) The commissioner may not make an affirmative finding of acceptability when the surplus lines insurer’s capital and surplus is less than \$4.5 million.

(2)(3) If an unauthorized insurer is an alien insurer, a surplus lines insurance producer may not place insurance with that unauthorized insurer unless, at the time of placement, the unauthorized insurer appears on the national association of insurance commissioners’ Non-Admitted Insurers Quarterly Listing.

(3)(4) A list of eligible surplus lines insurers must be published at least semiannually by the commissioner *for a range of risks, including disability income insurance*. This subsection does not require the commissioner to place or maintain the name of any unauthorized insurer on the list of eligible surplus lines insurers. An action may not lie against the commissioner or an employee of the commissioner for anything said in issuing the list of eligible surplus lines insurers referred to in this subsection.

(4)(5) As used in this section, the following definitions apply:

(a) “Capital”, as used in the financial requirements of this section, means funds invested in for stocks or other evidences of ownership.

(b) “Surplus”, as used in the financial requirements of this section, means funds over and above liabilities and capital of the insurer for the protection of policyholders.”

Section 3. Effective date. [This act] is effective July 1, 2019.

Approved May 9, 2019

CHAPTER NO. 411

[HB 598]

AN ACT REQUIRING THE STATE ENVIRONMENTAL LABORATORY TO LICENSE AND INSPECT TESTING LABORATORIES UNDER THE MONTANA MEDICAL MARIJUANA ACT; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 50-46-302, 50-46-303, 50-46-311, 50-46-312, 50-46-326, 50-46-329, AND 50-46-344, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. State laboratory responsibility to license and inspect testing laboratories. (1) The state laboratory shall assess applications for and monitor the operations of testing laboratories to ensure that:

(a) a person with a financial interest in the laboratory is complying with the requirements of 50-46-311(4); and

(b) an owner or employee is not in violation of 50-46-311(6).

(2) Before issuing or renewing a license, the state laboratory shall inspect the property to be used by a testing laboratory to ensure an applicant for licensure or license renewal is in compliance with this part. The state laboratory may not issue or renew a license if the applicant does not meet the requirements of this part.

(3) The state laboratory shall establish and enforce standard operating procedures and testing standards for testing laboratories to ensure that cardholders receive consistent and uniform information about the potency and quality of the marijuana and marijuana-infused products they receive. The state laboratory shall:

(a) consult with independent national or international organizations that establish testing standards for marijuana and marijuana-infused products;

(b) require testing laboratories to follow uniform standards and protocols for the samples accepted for testing and the processes used for testing the samples; and

(c) track and analyze the raw data for the results of testing conducted by testing laboratories to ensure that the testing laboratories are providing consistent and uniform results.

(4) If the analysis of raw testing data indicates that licensees are providing test results that vary among testing laboratories by an amount determined by the state laboratory by rule, the department shall investigate the inconsistent results and determine within 60 days the steps the testing laboratories must take to ensure that each testing laboratory provides accurate and consistent results.

(5) If the analysis of raw testing data indicates a testing laboratory may be providing inconsistent results, the state laboratory shall suspend the testing laboratory's license until additional testing determines whether the results are consistent.

(6) The state laboratory shall revoke a testing laboratory's license upon a determination that the laboratory is:

(a) providing test results that are fraudulent; or

(b) providing test results without having:

(i) the equipment needed to test marijuana, marijuana concentrates, or marijuana-infused products; or

(ii) the equipment required under this part to conduct the tests for which the laboratory is providing results.

(7) A revocation under this section is subject to judicial review.

Section 2. Section 50-46-302, MCA, is amended to read:

"50-46-302. Definitions. As used in this part, the following definitions apply:

(1) "Canopy" means the total amount of square footage dedicated to live plant production at a registered premises consisting of the area of the floor, platform, or means of support or suspension of the plant.

(2) "Chemical manufacturing" means the production of marijuana concentrate.

(3) "Correctional facility or program" means a facility or program that is described in 53-1-202 and to which an individual may be ordered by any court of competent jurisdiction.

(4) "Debilitating medical condition" means:

(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating physician;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department; or

(k) posttraumatic stress disorder.

(5) "Department" means the department of public health and human services provided for in 2-15-2201.

(6) "Dispensary" means a registered premises from which a provider or marijuana-infused products provider is approved by the department to dispense marijuana or marijuana-infused products to a registered cardholder.

(7) (a) "Employee" means an individual employed to do something for the benefit of an employer or a third person.

(b) The term includes a manager, agent, or director of a partnership, association, company, corporation, limited liability company, or organization.

(c) *The term does not include a third party with whom a licensee has a contractual relationship.*

(8) *"Financial interest" means a legal or beneficial interest that entitles the holder, directly or indirectly through a business, an investment, or a spouse, parent, or child relationship, to 1% or more of the net profits or net worth of the entity in which the interest is held.*

(8)(9) "Local government" means a county, a consolidated government, or an incorporated city or town.

(9)(10) "Marijuana" has the meaning provided in 50-32-101.

(10)(11) "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of the resin extracted from any part of the marijuana plant.

(11)(12) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, and byproducts of the marijuana plant, including but not limited to marijuana concentrates and marijuana-infused products.

(12)(13) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use by a registered cardholder by a means other than smoking.

(b) The term includes but is not limited to edible products, ointments, and tinctures.

(13)(14) (a) "Marijuana-infused products provider" means a person licensed by the department to manufacture and provide marijuana-infused products for a registered cardholder.

(b) The term does not include the cardholder's treating or referral physician.

~~(14)~~(15) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

~~(15)~~(16) "Paraphernalia" has the meaning provided in 45-10-101.

~~(16)~~(17) "Person" means an individual, partnership, association, company, corporation, limited liability company, or organization.

~~(17)~~(18) (a) "Provider" means a person licensed by the department to assist a registered cardholder as allowed under this part.

(b) The term does not include a cardholder's treating physician or referral physician.

~~(18)~~(19) "Referral physician" means an individual who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) is the physician to whom a patient's treating physician has referred the patient for physical examination and medical assessment.

~~(19)~~(20) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

~~(20)~~(21) "Registered premises" means the location at which a provider or marijuana-infused products provider:

(a) has indicated that marijuana will be cultivated, chemical manufacturing will occur, or marijuana-infused products will be manufactured for a registered cardholder; or

(b) has established a dispensary for sale of marijuana or marijuana-infused products to a registered cardholder.

~~(21)~~(22) "Registry identification card" means a document issued by the department pursuant to 50-46-303 that identifies an individual as a registered cardholder.

~~(22)~~(23) (a) "Resident" means an individual who meets the requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of this part if the individual:

(i) claims residence in another state or country for any purpose; or

(ii) is an absentee property owner paying property tax on property in Montana.

~~(23)~~(24) "Second degree of kinship by blood or marriage" means a mother, father, brother, sister, son, daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister, stepson, stepdaughter, stepgrandparent, or stepgrandchild.

~~(24)~~(25) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

~~(25)~~(26) "Standard of care" means, at a minimum, the following activities when undertaken by a patient's treating physician or referral physician if the treating physician or referral physician is providing written certification for a patient with a debilitating medical condition:

(a) obtaining the patient's medical history;

(b) performing a relevant and necessary physical examination;

(c) reviewing prior treatment and treatment response for the debilitating medical condition;

(d) obtaining and reviewing any relevant and necessary diagnostic test results related to the debilitating medical condition;

(e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;

(f) monitoring the response to treatment and possible adverse effects; and

(g) creating and maintaining patient records that remain with the physician.

(27) *“State laboratory” means the laboratory operated by the department of public health and human services to conduct environmental analyses.*

(26)(28) *“Testing laboratory” means a qualified person, licensed by the department, who meets the requirements of 50-46-311 and:*

(a) provides testing of small samples of marijuana and marijuana-infused products; and

(b) provides information regarding the chemical composition, the potency of a sample, and the presence of molds or pesticides in a sample.

(27)(29) *“Treating physician” means an individual who:*

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) has a bona fide professional relationship with the individual applying to be a registered cardholder.

(28)(30) (a) *“Usable marijuana” means the dried leaves and flowers of the marijuana plant and any marijuana derivatives that are appropriate for the use of marijuana by an individual with a debilitating medical condition.*

(b) *The term does not include the seeds, stalks, and roots of the plant.*

(29)(31) *“Written certification” means a statement signed by a treating physician or referral physician that meets the requirements of 50-46-310 and is provided in a manner that meets the standard of care.”*

Section 3. Section 50-46-303, MCA, is amended to read:

“50-46-303. Department responsibilities – issuance of cards and licenses – confidentiality – inspections – reports. (1) The department shall establish and maintain a program for:

(a) the issuance of registry identification cards to Montana residents who have debilitating medical conditions and who submit applications meeting the requirements of this part;

(b) the issuance of licenses:

(i) to persons who apply to operate as providers; ~~or marijuana-infused products providers, or testing laboratories and~~ who submit applications meeting the requirements of this part; and

(ii) for dispensaries established by providers or marijuana-infused products providers; ~~and~~

(iii) ~~through the state laboratory, to testing laboratories that submit applications meeting the requirements of this part;~~

(c) the issuance of endorsements for chemical manufacturing to a provider or a marijuana-infused products provider who applies for a chemical manufacturing endorsement and meets requirements established by the department by rule; and

(d) the tracking of marijuana and marijuana-infused products from either the seed or the immature plant stage until the marijuana or marijuana-infused product is sold to a registered cardholder to ensure that the marijuana or marijuana-infused product cultivated, manufactured, possessed, and sold under this part is not sold or otherwise provided to an individual who is not authorized under this part to possess the item. The tracking system must be provided to providers, marijuana-infused products providers, dispensaries, and testing laboratories at no additional cost.

(2) (a) An individual who obtains a registry identification card and does not name a provider or marijuana-infused products provider is authorized to cultivate, manufacture, possess, and transport marijuana as allowed by this part.

(b) An individual who obtains a registry identification card and names a provider or marijuana-infused products provider is authorized to possess marijuana as allowed by this part.

(c) A person who obtains a provider, marijuana-infused products provider, or dispensary license or an employee of a licensee is authorized to cultivate, manufacture, possess, sell, and transport marijuana as allowed by this part.

(d) A person who obtains a testing laboratory license or an employee of a licensee is authorized to possess, test, and transport marijuana as allowed by this part.

(3) The department shall conduct criminal history background checks as required by 50-46-307 and 50-46-308 before issuing a license to a person named as a provider or marijuana-infused products provider.

(4) (a) Registry identification cards and licenses issued pursuant to this part must:

(i) be laminated and produced on a material capable of lasting for the duration of the time period for which the card or license is valid;

(ii) state the name, address, and date of birth of the registered cardholder and of the cardholder's provider or marijuana-infused products provider, if any;

(iii) indicate whether a provider or marijuana-infused products provider has an endorsement for chemical manufacturing;

(iv) state the date of issuance and the expiration date of the registry identification card or license;

(v) contain a unique identification number; and

(vi) contain other information that the department may specify by rule.

(b) Except as provided in subsection (4)(c), in addition to complying with subsection (4)(a), registry identification cards issued pursuant to this part must:

(i) include a picture of the registered cardholder; and

(ii) be capable of being used to track registered cardholder purchases.

(c) The department may issue temporary identification cards valid for 60 days that do not meet the requirements of subsection (4)(b).

(5) (a) The department *or state laboratory, as applicable*, shall review the information contained in an application or renewal submitted pursuant to this part and shall approve or deny an application or renewal within 30 days of receiving the application or renewal and all related application materials.

(b) The department shall issue a registry identification card, license, or endorsement within 5 days of approving an application or renewal.

(6) Rejection of an application or renewal is considered a final department action, subject to judicial review.

(7) (a) Registry identification cards expire 1 year after the date of issuance unless:

(i) a physician has provided a written certification stating that a card is valid for a shorter period of time; or

(ii) a registered cardholder changes providers or marijuana-infused products providers.

(b) Licenses and endorsements issued to providers, marijuana-infused products providers, and testing laboratories must be renewed annually.

(8) (a) A registered cardholder shall notify the department of any change in the cardholder's name, address, physician, provider, or marijuana-infused

products provider or change in the status of the cardholder's debilitating medical condition within 10 days of the change.

(b) A registered cardholder who possesses mature plants or seedlings under 50-46-319(1) shall notify the department of the location of the plants and seedlings or any change of location of plants or seedlings. The department shall provide the names and locations of cardholders who possess mature plants or seedlings to the local law enforcement agency having jurisdiction in the area in which the plants or seedlings are located. The law enforcement agency and its employees are subject to the confidentiality requirements of 50-46-332.

(c) If a change occurs and is not reported to the department, the registry identification card is void.

(9) The department shall maintain a confidential list of individuals to whom the department has issued registry identification cards. Except as provided in subsections (8)(b) and (10), individual names and other identifying information on the list must be confidential and are not subject to disclosure, except to:

(a) authorized employees of the department as necessary to perform the official duties of the department; and

(b) authorized employees of state or local government agencies, including law enforcement agencies, only as necessary to verify that an individual is a lawful possessor of a registry identification card.

(10) The department shall provide the names and phone numbers of providers and marijuana-infused products providers and the city, town, or county where registered premises and testing laboratories are located to the public on the department's website. The department may not disclose the physical location or address of a provider, marijuana-infused products provider, dispensary, or testing laboratory.

(11) The department may share only information about providers, marijuana-infused products providers, dispensaries, and testing laboratories with the department of revenue for the purpose of investigation and prevention of noncompliance with tax laws, including but not limited to evasion, fraud, and abuse. The department of revenue and its employees are subject to the confidentiality requirements of 15-64-111(1).

(12) The department shall report biannually to the legislature the number of applications for registry identification cards, the number of registered cardholders approved, the nature of the debilitating medical conditions of the cardholders, the number of providers and marijuana-infused products providers licensed, the number of endorsements approved for chemical manufacturing, the number of testing laboratories licensed, the number of dispensaries licensed, the number of registry identification cards and licenses revoked, the number of physicians providing written certification for registered cardholders, and the number of written certifications each physician has provided. The report may not provide any identifying information of cardholders, physicians, providers, marijuana-infused products providers, dispensaries, or testing laboratories.

(13) The board of medical examiners shall report annually to the legislature on the number and types of complaints the board has received involving physician practices in providing written certification for the use of marijuana, pursuant to 37-3-203."

Section 4. Section 50-46-311, MCA, is amended to read:

"50-46-311. Testing laboratories. (1) (a) The department *state laboratory* shall license testing laboratories that meet the requirements of this part. ~~to~~ *The state laboratory shall inspect a testing laboratory before issuing or renewing a license. The state laboratory may not issue a temporary license while an inspection is pending.*

(b) *Inspections conducted for licensure or renewal of licensure must include a review of an applicant's or testing laboratory's:*

- (i) *physical premises where testing will be conducted;*
- (ii) *instrumentation;*
- (iii) *protocols for sampling, handling, testing, reporting, security and storage, and waste disposal;*
- (iv) *raw data on tests conducted by the laboratory, if the inspection is for renewal of a license; and*
- (v) *vehicles used for transporting marijuana or marijuana-infused products samples for testing purposes.*

(2) *A testing laboratory shall:*

- (a) *measure the tetrahydrocannabinol and cannabidiol content of marijuana and marijuana-infused products; and to*
- (b) *test marijuana and marijuana-infused products for pesticides, solvents, water levels, mold, and other contaminants. A testing laboratory may transport samples to be tested.*

(b)(3) *The analytical laboratory services provided by the department of agriculture pursuant to 80-1-104 may be used for the testing provided for in this section.*

(2)(4) *A person with a financial interest in a licensed testing laboratory may not have a financial interest in a provider for whom testing services are performed.*

(3)(5) *Each licensed testing laboratory shall employ a scientific director who is responsible for ensuring the achievement and maintenance of quality standards of practice. The scientific director must have the following minimum qualifications:*

- (a) *a doctorate in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or*

- (b) *a master's degree in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 4 years of postdegree laboratory experience.*

(4)(6) *All owners and employees of a testing laboratory shall submit fingerprints to the ~~department~~ state laboratory to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation. A testing laboratory may not be owned, operated, or staffed by a person who has been convicted of a felony offense.*

(5)(7) *To qualify for licensure, a testing laboratory shall demonstrate that:*

- (a) *staff members are proficient in operation of the laboratory equipment; and*

- (b) *the laboratory:*

- (i) *maintains the equipment and instrumentation required by rule;*
 - (ii) *has all equipment and instrumentation necessary to certify results that meet the quality assurance testing requirements established by rule, including the ability to certify results at the required level of sensitivity;*

- (c) ~~the laboratory~~(iii) *meets insurance and bonding requirements established by rule; and*

- (iv) *has the capacity and ability to serve rural areas of the state; and*

- (d) ~~the laboratory~~(v) *has passed a relevant proficiency program that demonstrates it is able to meet all testing requirements. The ~~department~~ state laboratory shall establish by rule the proficiency programs considered relevant for the purposes of this section.*

(6)(8) Except as provided in 50-46-326(1)(b), a testing laboratory shall conduct tests of:

(a) samples of marijuana, marijuana concentrate, and marijuana-infused products submitted by providers and marijuana-infused products providers pursuant to 50-46-326 and related administrative rules prior to sale of the marijuana or marijuana-infused products;

(b) samples of marijuana or marijuana-infused products collected by the department during inspections of registered premises; and

(c) samples submitted by registered cardholders.”

Section 5. Section 50-46-312, MCA, is amended to read:

“50-46-312. License as privilege – criteria. (1) A provider, marijuana-infused products provider, dispensary, or testing laboratory license or an endorsement for chemical manufacturing is a privilege that the state may grant to an applicant and is not a right to which an applicant is entitled. In making a licensing decision, the department shall consider:

(a) the qualifications of the applicant; and

(b) the suitability of the proposed registered premises.

(2) The department *or state laboratory, as applicable*, may deny or revoke a license based on proof that the applicant made a false statement in any part of the original application or renewal application.

(3) The department *or state laboratory, as applicable*, may deny a license if the applicant’s proposed registered premises:

(a) is situated within a zone of a city, town, or county where an activity related to the medical use of marijuana is prohibited by ordinance or resolution, a certified copy of which has been filed with the department; or

(b) will adversely affect the welfare of the people residing in or of retail businesses located in the vicinity.

(4) (a) The department *or state laboratory, as applicable*, may deny a license or endorsement if the applicant’s proposed registered premises or testing laboratory:

(i) is not approved by local building, health, or fire officials; or

(ii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school or postsecondary school other than a commercially operated school. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee’s premises.

(b) The department may not approve a license for a provider, marijuana-infused products provider, or dispensary if a local government has adopted an ordinance or resolution prohibiting the operation of dispensaries or storefront businesses as allowed under 50-46-328.

(c) For the purposes of this subsection (4), “school” and “postsecondary school” have the meanings provided in 20-5-402.”

Section 6. Section 50-46-326, MCA, is amended to read:

“50-46-326. Testing of marijuana and marijuana-infused products.

(1) (a) Except as provided in subsection (1)(b), a provider or marijuana-infused products provider may not sell marijuana or marijuana-infused products until the marijuana or products have been tested by a testing laboratory or the department of agriculture and met the requirements of this section.

(b) A provider or marijuana-infused products provider who has been named as a provider by 10 or fewer registered cardholders is exempt from the testing requirements of this section until April 30, 2020.

(2) A provider or marijuana-infused products provider shall submit material that has been collected in accordance with a sampling protocol established by the ~~department~~ *state laboratory* by rule. The protocol must address the division

of marijuana and marijuana-infused products into lot sizes for testing. Each lot must be tested in the following categories:

- (a) flower;
- (b) concentrate; and
- (c) marijuana-infused product.

(3) The ~~department~~ *state laboratory* shall adopt rules regarding the types of tests that must be performed to ensure product safety and consumer protection. Rules must include but are not limited to testing for:

- (a) the potency of the cannabinoid present; and
- (b) the presence of contaminants.

(4) The testing laboratory shall conduct a visual inspection of each lot to determine the presence of levels of foreign matter, debris, insects, and visible mold.

(5) The ~~department~~ *state laboratory* shall establish by rule the acceptable levels of pesticides, residual solvents, mold, foreign matter, debris, insects, and other contaminants that marijuana-infused products may contain.

(6) The *testing* laboratory shall:

- (a) issue a certificate of analysis certifying the test results; and
- (b) report the results to the seed-to-sale tracking system established pursuant to 50-46-303.

(7) A provider or marijuana-infused products provider may request that material that has failed to pass the required tests be retested. The ~~department~~ *state laboratory* shall adopt rules that provide for retesting parameters and requirements.

(8) Marijuana or a marijuana-infused product must include a label indicating whether the marijuana or marijuana-infused product has been tested.”

Section 7. Section 50-46-329, MCA, is amended to read:

“50-46-329. Inspection procedures. (1) The department shall conduct unannounced inspections of registered premises and testing laboratories. The department shall report biennially to the children, families, health, and human services interim committee concerning the results of unannounced inspections.

(2) (a) The department shall inspect annually each registered premises and testing laboratory.

(b) The department shall collect samples during the inspection of registered premises and submit them to a testing laboratory for testing as provided by the ~~department~~ *state laboratory* by rule.

(3) (a) Each provider and marijuana-infused products provider shall keep a complete set of records necessary to show all transactions with registered cardholders. The records must be open for inspection by the department *or state laboratory, as appropriate*, and state or local law enforcement agencies during normal business hours.

(b) The department may require a provider or marijuana-infused products provider to furnish information that the department considers necessary for the proper administration of this part.

(4) (a) A registered premises, including any places of storage, where marijuana is cultivated, manufactured, sold, or stored is subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation during normal business hours.

(b) If any part of the registered premises consists of a locked area, the provider or marijuana-infused products provider shall make the area available for inspection without delay upon request of the department or state or local law enforcement officials.

(5) A provider or marijuana-infused products provider shall maintain records showing the names and registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana, or marijuana-infused products were sold or transferred and the quantities sold or transferred to each cardholder.

(6) *The state laboratory shall conduct the inspections of testing laboratories required under this section.*

(6)(7) The department may establish penalties, including financial penalties and license revocation, for the violation of agricultural or public health standards.”

Section 8. Section 50-46-344, MCA, is amended to read:

“50-46-344. Rulemaking authority – fees. (1) The department shall adopt rules necessary for the implementation and administration of this part. The rules must include but are not limited to:

(a) the manner in which the department will consider applications for licenses and endorsements and applications for registry identification cards for individuals with debilitating medical conditions and renewal of licenses, endorsements, and registry identification cards;

(b) the acceptable forms of proof of Montana residency;

(c) the procedures for obtaining fingerprints for the fingerprint and background check required under 50-46-307 and 50-46-308;

(d) the security and operating requirements for dispensaries;

(e) the security and operating requirements for chemical manufacturing, including but not limited to requirements for:

(i) safety equipment;

(ii) extraction methods, including solvent-based and solvent-free extraction; and

(iii) postprocessing procedures;

(f) the amount of usable marijuana that a registered cardholder who has not named a provider or marijuana-infused products provider may possess;

(g) the canopy for which a provider or marijuana-infused products provider is licensed;

(h) implementation of a system to allow the tracking of marijuana and marijuana-infused products as required by 50-46-303;

(i) requirements and standards for the testing and retesting of marijuana and marijuana-infused products, including testing of samples collected during the department’s inspections of registered premises; and

(j) other rules necessary to implement the purposes of this part.

(2) In establishing the canopy for a provider or marijuana-infused products provider, the department shall take into consideration:

(a) safety and security issues;

(b) the provision of adequate access to usable marijuana to accommodate the needs of registered cardholders; and

(c) economies of scale and their effect on the ability of licensees to comply with regulatory requirements and undercut illegal market prices.

(3) *The administrative rules promulgated under this part for testing laboratories must be developed and proposed by the state laboratory.*

(3)(4) (a) Except as provided in subsection (3)(b) (4)(b), license fees for providers and marijuana-infused products providers are \$1,000 for 10 or fewer registered cardholders and \$5,000 for more than 10 registered cardholders.

(b) The department may revise the fee provided for in subsection (3)(a) (4)(a) as needed to adequately fund the administration of the Montana Medical Marijuana Act and the seed-to-sale tracking system, including operating reserve funds of \$250,000. The department shall establish revised fees by rule.

(c) A provider of both marijuana and marijuana-infused products is required to have only one license.

(4)(5) The department shall establish by rule the fees for dispensaries, endorsements for chemical manufacturing, and testing laboratories.

(5)(6) All fees and civil penalties collected under this part must be deposited in the medical marijuana state special revenue account established in 50-46-345.

(6)(7) The department's rules must establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering this part."

Section 9. Legislative intent. It is the intent of the legislature that the department of public health and human services fulfill the requirements of [this act] within existing resources.

Section 10. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 50, chapter 46, part 3, and the provisions of Title 50, chapter 46, part 3, apply to [section 1].

Approved May 9, 2019

CHAPTER NO. 412

[HB 599]

AN ACT ALLOWING FOR THE PRACTICE OF CERTAIN HEALTH CARE SERVICES UNDER THE COMMUNITY HEALTH AIDE PROGRAM; ALLOWING FOR USE OF FEDERAL CERTIFICATION STANDARDS FOR HEALTH AIDES; REQUIRING MEDICAID COVERAGE OF SERVICES PROVIDED BY PEOPLE MEETING FEDERAL CERTIFICATION STANDARDS; AMENDING SECTION 53-6-101, MCA; AND PROVIDING A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Recognition of federal authority. The state of Montana recognizes that the Indian Health Care Improvement Act, 25 U.S.C. 1601, et seq.:

(1) provides the federal secretary of health and human services, acting through the Indian health service, with the authority to:

(a) establish a community health aide program in the state of Montana; and

(b) establish and maintain a community health aide certification board to adopt certification standards for individuals to act as specific aides within the program, including community health aides, behavioral health aides, and dental health aide therapists; and

(2) requires dental health aide therapist services to be excluded from the community health aide program in Montana unless the services are authorized under state law and provided in accordance with state law.

Section 2. Community health aide program – exception to licensing requirements. (1) An individual may, without obtaining a license under this title, provide health care services within the scope of the individual's certification in a practice setting operated by the Indian health service or a tribal health program authorized pursuant to Public Law 93-638, if the individual is certified by:

(a) a federal community health aide program certification board established pursuant to 25 U.S.C. 1616l; or

(b) a federally recognized Indian tribe that has adopted certification standards that meet or exceed the requirements of a federal community health aide program certification board.

(2) Services provided under this section must be provided in accordance with the standards adopted by the certifying body, including standards related to scope of practice, training, supervision, and continuing education.

(3) After meeting the competencies required for the appropriate type and level of certification, an individual may practice under this section in the following areas:

(a) dental health, as a primary or expanded function dental health aide, dental health aide hygienist, or dental health aide therapist to assist with dental education and primary or preventive dental care as appropriate to the individual's certification, and provided that performing dental extractions or invasive procedures to teeth and gums is prohibited;

(b) behavioral health, as a behavioral health aide or behavioral health aide practitioner to assist with case management, patient and community education, and patient evaluation, treatment planning, and treatment activities as appropriate to the individual's certification. A behavioral health practitioner may, only under the general supervision of a licensed behavioral health professional, conduct routine screening, assessment, evaluation, and counseling of patients.

(c) community health, as a community health aide or community health aide practitioner to assist with acute, preventive, and primary care services as appropriate to the individual's certification.

(4) An individual providing services under this section may provide the services only while discharging official duties on behalf of the United States government under the Indian health service, a tribal health program authorized pursuant to Public Law 93-638, or an urban Indian health center.

Section 3. Section 53-6-101, MCA, is amended to read:

"53-6-101. Montana medicaid program – authorization of services.

(1) There is a Montana medicaid program established for the purpose of providing necessary medical services to eligible persons who have need for medical assistance. The Montana medicaid program is a joint federal-state program administered under this chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. The department shall administer the Montana medicaid program.

(2) The department and the legislature shall consider the following funding principles when considering changes in medicaid policy that either increase or reduce services:

(a) protecting those persons who are most vulnerable and most in need, as defined by a combination of economic, social, and medical circumstances;

(b) giving preference to the elimination or restoration of an entire medicaid program or service, rather than sacrifice or augment the quality of care for several programs or services through dilution of funding; and

(c) giving priority to services that employ the science of prevention to reduce disability and illness, services that treat life-threatening conditions, and services that support independent or assisted living, including pain management, to reduce the need for acute inpatient or residential care.

(3) Medical assistance provided by the Montana medicaid program includes the following services:

(a) inpatient hospital services;

(b) outpatient hospital services;

(c) other laboratory and x-ray services, including minimum mammography examination as defined in 33-22-132;

- (d) skilled nursing services in long-term care facilities;
 - (e) physicians' services;
 - (f) nurse specialist services;
 - (g) early and periodic screening, diagnosis, and treatment services for persons under 21 years of age, in accordance with federal regulations and subsection (10)(b);
 - (h) ambulatory prenatal care for pregnant women during a presumptive eligibility period, as provided in 42 U.S.C. 1396a(a)(47) and 42 U.S.C. 1396r-1;
 - (i) targeted case management services, as authorized in 42 U.S.C. 1396n(g), for high-risk pregnant women;
 - (j) services that are provided by physician assistants within the scope of their practice and that are otherwise directly reimbursed as allowed under department rule to an existing provider;
 - (k) health services provided under a physician's orders by a public health department;
 - (l) federally qualified health center services, as defined in 42 U.S.C. 1396d(l)(2);
 - (m) routine patient costs for qualified individuals enrolled in an approved clinical trial for cancer as provided in 33-22-153; ~~and~~
 - (n) for children 18 years of age and younger, habilitative services as defined in 53-4-1103; ~~and~~
 - (o) *services provided by a person certified in accordance with [section 2] to provide services in accordance with the Indian Health Care Improvement Act, 25 U.S.C. 1601, et seq.*
- (4) Medical assistance provided by the Montana medicaid program may, as provided by department rule, also include the following services:
- (a) medical care or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law;
 - (b) home health care services;
 - (c) private-duty nursing services;
 - (d) dental services;
 - (e) physical therapy services;
 - (f) mental health center services administered and funded under a state mental health program authorized under Title 53, chapter 21, part 10;
 - (g) clinical social worker services;
 - (h) prescribed drugs, dentures, and prosthetic devices;
 - (i) prescribed eyeglasses;
 - (j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;
 - (k) inpatient psychiatric hospital services for persons under 21 years of age;
 - (l) services of professional counselors licensed under Title 37, chapter 23;
 - (m) hospice care, as defined in 42 U.S.C. 1396d(o);
 - (n) case management services, as provided in 42 U.S.C. 1396d(a) and 1396n(g), including targeted case management services for the mentally ill;
 - (o) services of psychologists licensed under Title 37, chapter 17;
 - (p) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C. 1396d(h), in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201; and
 - (q) any additional medical service or aid allowable under or provided by the federal Social Security Act.
- (5) Services for persons qualifying for medicaid under the medically needy category of assistance, as described in 53-6-131, may be more limited

in amount, scope, and duration than services provided to others qualifying for assistance under the Montana medicaid program. The department is not required to provide all of the services listed in subsections (3) and (4) to persons qualifying for medicaid under the medically needy category of assistance.

(6) In accordance with federal law or waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department may implement limited medicaid benefits, to be known as basic medicaid, for adult recipients who are eligible because they are receiving financial assistance, as defined in 53-4-201, as the specified caretaker relative of a dependent child under the FAIM project and for all adult recipients of medical assistance only who are covered under a group related to a program providing financial assistance, as defined in 53-4-201. Basic medicaid benefits consist of all mandatory services listed in subsection (3) but may include those optional services listed in subsections (4)(a) through (4)(q) that the department in its discretion specifies by rule. The department, in exercising its discretion, may consider the amount of funds appropriated by the legislature, whether approval has been received, as provided in 53-1-612, and whether the provision of a particular service is commonly covered by private health insurance plans. However, a recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage.

(7) The department may implement, as provided for in Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, a program under medicaid for payment of medicare premiums, deductibles, and coinsurance for persons not otherwise eligible for medicaid.

(8) (a) The department may set rates for medical and other services provided to recipients of medicaid and may enter into contracts for delivery of services to individual recipients or groups of recipients.

(b) The department shall strive to close gaps in services provided to individuals suffering from mental illness and co-occurring disorders by doing the following:

(i) simplifying administrative rules, payment methods, and contracting processes for providing services to individuals of different ages, diagnoses, and treatments. Any adjustments to payments must be cost-neutral for the biennium beginning July 1, 2017.

(ii) publishing a report on an annual basis that describes the process that a mental health center or chemical dependency facility, as those terms are defined in 50-5-101, must utilize in order to receive payment from Montana medicaid for services provided to individuals of different ages, diagnoses, and treatments.

(9) The services provided under this part may be only those that are medically necessary and that are the most efficient and cost-effective.

(10) (a) The amount, scope, and duration of services provided under this part must be determined by the department in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended.

(b) The department shall, with reasonable promptness, provide access to all medically necessary services prescribed under the early and periodic screening, diagnosis, and treatment benefit, including access to prescription drugs and durable medical equipment for which the department has not negotiated a rebate.

(11) Services, procedures, and items of an experimental or cosmetic nature may not be provided.

(12) If available funds are not sufficient to provide medical assistance for all eligible persons, the department may set priorities to limit, reduce, or

otherwise curtail the amount, scope, or duration of the medical services made available under the Montana medicaid program after taking into consideration the funding principles set forth in subsection (2)."

Section 4. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 5. Direction to department of public health and human services. The department of public health and human services is directed to apply to the centers for medicare and medicaid services for a state plan amendment or a research and demonstration project waiver as may be needed to authorize medicaid coverage of services provided by individuals certified in accordance with [section 2].

Section 6. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 37, chapter 2, part 3, and the provisions of Title 37, chapter 2, part 3, apply to [sections 1 and 2].

Section 7. Termination. [This act] terminates September 30, 2023.

Approved May 9, 2019

CHAPTER NO. 413

[HB 654]

AN ACT GENERALLY REVISING LAWS FOR FUNDING FOR TREATMENT COURTS; REQUIRING LICENSING OF OPIOID SELLERS; PROVIDING RULEMAKING AUTHORITY TO THE DEPARTMENT OF REVENUE; CREATING A TREATMENT COURT SUPPORT SPECIAL REVENUE ACCOUNT FOR DEPOSIT OF OPIOID TAX PROCEEDS; REQUIRING THE COURT ADMINISTRATOR TO ESTABLISH PROCEDURES TO DISTRIBUTE ACCOUNT FUNDS; PROVIDING PRIORITIES, ELIGIBLE RECIPIENTS, AND USES FOR ACCOUNT FUNDS; PROVIDING AN APPROPRIATION; AMENDING SECTION 3-1-702, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 and 2], the following definitions apply:

(1) "Department" means the department of revenue provided for in 2-15-1301.

(2) "Opioid" has the meaning provided for "opiate" in 50-32-101.

(3) "Person" means an individual, firm, partnership, corporation, association, company, committee, other group of persons, or other business entity, however formed, who is a wholesaler licensed by the board of pharmacy and who is a distributor of opioids.

Section 2. License requirements -- rulemaking. (1) (a) Except as provided in subsection (1)(b), a person engaging in the initial sale of opioids in the state shall first obtain a license from the department and pay the annual license fee of \$500. The license is valid from January 1 through December 31 each year. If a license is obtained after January 1 in any year, the license is valid from the date the license is obtained through December 31 of that year.

(b) A retail pharmacy is not required to obtain the license provided for in this subsection (1).

(2) The department shall maintain on its website a current list of approved licensed opioid sellers eligible to sell opioids in the state.

(3) The annual license fee revenue must be deposited in the treatment court support account provided for in [section 3].

(4) The department may adopt rules to administer and enforce the provisions of [sections 1 and 2].

Section 3. Treatment court support account – distribution of funds – report. (1) There is a treatment court support account in the state special revenue fund for purposes provided in subsection (3).

(2) The supreme court administrator shall establish procedures for the distribution and accountability of money in the account. The court administrator shall give priority to funding programs or services in rural or underserved areas of the state or that address opioid abuse.

(3) Money in the treatment court support account must be used to expand the capacity and quality of existing treatment courts and extend treatment courts to areas of the state that are unserved by a treatment court. District, local, and tribal treatment courts are eligible to receive treatment court support account funds. Funding from the account may be used solely to fund services required for participants, drug and alcohol testing, case management services, treatment court staff, technology, program evaluation, or other needs identified by the supreme court administrator related to efficient and effective operation of treatment courts. The court administrator may use account funds to hire a grant writer or contract for grant writing services.

Section 4. Section 3-1-702, MCA, is amended to read:

“3-1-702. Duties. The court administrator is the administrative officer of the court. Under the direction of the supreme court, the court administrator shall:

(1) prepare and present judicial budget requests to the legislature, including the costs of the state-funded district court program;

(2) collect, compile, and report statistical and other data relating to the business transacted by the courts and provide the information to the legislature on request;

(3) to the extent possible, provide that current and future information technology applications are coordinated and compatible with the standards and goals of the executive branch as expressed in the state strategic information technology plan provided for in 2-17-521;

(4) recommend to the supreme court improvements in the judiciary;

(5) administer legal assistance for indigent victims of domestic violence, as provided in 3-2-714;

(6) administer state funding for district courts, as provided in chapter 5, part 9;

(7) administer and report on the child abuse and neglect court diversion pilot project provided in 41-3-305;

(8) administer the pretrial program provided for in 3-1-708;

(9) *administer the treatment court support account provided for in [section 3];*

~~(9)~~(10) administer the judicial branch personnel plan; and

~~(10)~~(11) perform other duties that the supreme court may assign. (Subsection (7) terminates June 30, 2019 -- secs. 5, 7, Ch. 141, L. 2017.)”

Section 5. Appropriation. There is appropriated \$250,000 from the state special revenue account established in [section 3] to the judicial branch in the fiscal year beginning July 1, 2020, for the purpose of funding treatment courts as provided in [section 3(3)]. The legislature intends that this appropriation be part of the supreme court operations base budget for the 2023 biennium.

Section 6. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 7. Codification instruction. (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 and 2].

(2) [Section 3] is intended to be codified as an integral part of Title 3, chapter 1, part 7, and the provisions of Title 3, chapter 1, part 7, apply to [section 3].

Section 8. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 9. Effective date. [This act] is effective on passage and approval.

Section 10. Applicability. [This act] applies to a person selling opioids into the state after June 30, 2019.

Approved May 9, 2019

CHAPTER NO. 414

[HB 656]

AN ACT REVISING OIL AND GAS TAXATION LAWS; PROVIDING A FIXED TAX RATE FOR THE PRIVILEGE AND LICENSE TAX AND THE TAX FOR THE OIL AND GAS NATURAL RESOURCE DISTRIBUTION ACCOUNT; PROVIDING FOR THE ALLOCATION OF PRIVILEGE AND LICENSE TAX REVENUE AND REVENUE FROM THE TAX FOR THE OIL AND GAS NATURAL RESOURCE DISTRIBUTION ACCOUNT; PROVIDING THAT THE TAX FOR THE OIL AND GAS NATURAL RESOURCE DISTRIBUTION ACCOUNT BE DISTRIBUTED TO INCORPORATED CITIES AND TOWNS IN WHICH OIL PRODUCTION OCCURS; AMENDING SECTIONS 15-36-304, 15-36-331, 15-36-332, 82-11-131, 82-11-135, AND 90-6-1001, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-36-304, MCA, is amended to read:

“15-36-304. Production tax rates imposed on oil and natural gas – exemption. (1) The production of oil and natural gas is taxed as provided in this section. The tax is distributed as provided in 15-36-331 and 15-36-332.

(2) Natural gas is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) (i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		
(A) pre-1999 wells	14.8%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper natural gas pre-1999 wells	11%	14.8%

(c) horizontally completed
well production:

(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months	9%	14.8%

(3) The reduced tax rates under subsection (2)(a)(i) on production for the first 12 months of natural gas production from a well begin following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.

(4) The reduced tax rates under subsection (2)(c)(i) on production from a horizontally completed well for the first 18 months of production begin following the last day of the calendar month immediately preceding the month in which natural gas is placed in a natural gas distribution system, provided that notification has been given to the department.

(5) Oil is taxed on the gross taxable value of production based on the type of well and type of production according to the following schedule for working interest and nonworking interest owners:

	Working Interest	Nonworking Interest
(a) primary recovery production:		
(i) first 12 months of qualifying production	0.5%	14.8%
(ii) after 12 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%
(b) stripper oil production:		
(i) first 1 through 10 barrels a day production	5.5%	14.8%
(ii) more than 10 barrels a day production	9.0%	14.8%
(c) (i) stripper well exemption production	0.5%	14.8%
(ii) stripper well bonus production	6.0%	14.8%
(d) horizontally completed well production:		
(i) first 18 months of qualifying production	0.5%	14.8%
(ii) after 18 months:		
(A) pre-1999 wells	12.5%	14.8%
(B) post-1999 wells	9%	14.8%

(e) incremental

production:

(i) new or expanded

secondary recovery	8.5%	14.8%
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production

(ii) new or expanded

tertiary production	5.8%	14.8%
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(f) horizontally

recompleted well:

(i) first 18 months	5.5%	14.8%
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(ii) after 18 months:

(A) pre-1999 wells	12.5%	14.8%
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(B) post-1999 wells	9%	14.8%
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(6) (a) The reduced tax rates under subsection (5)(a)(i) for the first 12 months of oil production from a well begin following the last day of the calendar month immediately preceding the month in which oil is pumped or flows, provided that notification has been given to the department.

(b) (i) The reduced tax rates under subsection (5)(d)(i) on oil production from a horizontally completed well for the first 18 months of production begin following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally completed well to the department by the board.

(ii) The reduced tax rates under subsection (5)(f)(i) on oil production from a horizontally recompleted well for the first 18 months of production begin following the last day of the calendar month immediately preceding the month in which oil is pumped or flows if the well has been certified as a horizontally recompleted well to the department by the board.

(c) Incremental production is taxed as provided in subsection (5)(e) only if the average price for a barrel of west Texas intermediate crude oil during a calendar quarter is less than \$54. If the price of oil is equal to or greater than \$54 a barrel in a calendar quarter as determined in subsection (6)(e), then incremental production from pre-1999 wells and from post-1999 wells is taxed at the rate imposed on primary recovery production under subsections (5)(a)(ii)(A) and (5)(a)(ii)(B), respectively, for production occurring in that quarter, other than exempt stripper well production.

(d) (i) Stripper well exemption production is taxed as provided in subsection (5)(c)(i) only if the average price for a barrel of west Texas intermediate crude oil during a calendar quarter is less than \$54. If the price of oil is equal to or greater than \$54 a barrel, there is no stripper well exemption tax rate and oil produced from a well that produces 3 barrels a day or less is taxed as stripper well bonus production.

(ii) Stripper well bonus production is subject to taxation as provided in subsection (5)(c)(ii) only if the average price for a barrel of west Texas intermediate crude oil during a calendar quarter is equal to or greater than \$54.

(e) For the purposes of subsections (6)(c) and (6)(d), the average price for each barrel must be computed by dividing the sum of the daily price for a barrel of west Texas intermediate crude oil for the calendar quarter by the number of days on which the price was reported in the quarter.

(7) (a) The tax rates imposed under subsections (2) and (5) on working interest owners and nonworking interest owners must be adjusted to include

the total of the privilege and license tax adopted by the board of oil and gas conservation pursuant to 82-11-131 and the ~~derived rate~~ tax for the oil and gas natural resource distribution account as determined under subsection (7)(b).

(b) The total of the privilege and license tax and the tax for the oil and gas natural resource distribution account established in 90-6-1001(1) may not exceed is 0.3%. The base rate for the tax for oil and gas natural resource distribution account funding is 0.08%, but when the rate adopted pursuant to 82-11-131 by the board of oil and gas conservation for the privilege and license tax:

(i) exceeds 0.22%, the rate for the tax to fund the oil and gas natural resource distribution account is equal to the difference between the rate adopted by the board of oil and gas conservation and 0.3%; or

(ii) is less than 0.18%, the rate for the tax to fund the oil and gas natural resource distribution account is equal to the difference between the rate adopted by the board of oil and gas conservation and 0.26%.

(c) The board of oil and gas conservation shall give the department at least 90 days' notice of any change in the rate adopted by the board. Any rate change of the tax to fund the oil and gas natural resource distribution account is effective at the same time that the board of oil and gas conservation rate is effective.

(8) Any interest in production owned by the state or a local government is exempt from taxation under this section."

Section 2. Section 15-36-331, MCA, is amended to read:

"15-36-331. Distribution of taxes. (1) (a) For each calendar quarter, the department shall determine the amount of tax, late payment interest, and penalties collected under this part.

(b) For the purposes of distribution of oil and natural gas production taxes to county and school district taxing units under 15-36-332 and to the state, the department shall determine the amount of oil and natural gas production taxes paid on production in the taxing unit.

(2) (a) The amount of oil and natural gas production taxes collected for the *percentage of privilege and license tax established by the board* pursuant to 82-11-131 must be deposited, in accordance with the provisions of 17-2-124, in the *account in the state special revenue fund* for the purpose of paying expenses of the board, as provided in 82-11-135.

(b) ~~The amount of the tax allocated in 15-36-304(7)(b) for~~ *After the allocation provided for in subsection (2)(a), up to 0.08% of the tax collected pursuant to 15-36-304(7) must be deposited in the oil and gas natural resource distribution account established in 90-6-1001(1) must be deposited in the account for distribution pursuant to 15-36-332(7).*

(c) *Any funds remaining after the allocations provided for in subsections (2)(a) and (2)(b) must remain in the account provided for in 82-11-135 as reserves for the board or for legislative transfer for purposes related to the impacts of oil and gas production.*

(3) (a) For each tax year, the amount of oil and natural gas production taxes determined under subsection (1)(b) is allocated to each county according to the following schedule:

Big Horn	45.05%
Blaine	58.39%
Carbon	48.27%
Chouteau	58.14%
Custer	69.53%

Daniels	50.81%
Dawson	47.79%
Fallon	41.78%
Fergus	69.18%
Garfield	45.96%
Glacier	58.83%
Golden Valley	58.37%
Hill	64.51%
Liberty	57.94%
McCone	49.92%
Musselshell	48.64%
Petroleum	48.04%
Phillips	54.02%
Pondera	54.26%
Powder River	60.9%
Prairie	40.38%
Richland	47.47%
Roosevelt	45.71%
Rosebud	39.33%
Sheridan	47.99%
Stillwater	53.51%
Sweet Grass	61.24%
Teton	46.1%
Toole	57.61%
Valley	51.43%
Wibaux	49.16%
Yellowstone	46.74%
All other counties	50.15%

(b) The oil and natural gas production taxes allocated to each county must be deposited in the state special revenue fund and transferred to each county for distribution, as provided in 15-36-332.

(4) The department shall, in accordance with the provisions of 17-2-124, distribute the state portion of oil and natural gas production taxes remaining after the distributions pursuant to subsections (2) and (3) as follows:

~~(a) for each fiscal year through the fiscal year ending June 30, 2011, to be distributed as follows:~~

~~(i) 1.23% to the coal bed methane protection account established in 76-15-904;~~

~~(ii) 1.45% to the natural resources projects state special revenue account established in 15-38-302;~~

~~(iii) 1.45% to the natural resources operations state special revenue account established in 15-38-301;~~

~~(iv) 2.99% to the orphan share account established in 75-10-743;~~

~~(v) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 15-10-108; and~~

~~(vi) all remaining proceeds to the state general fund;~~

~~(b) for fiscal years beginning after June 30, 2011, to be distributed as follows:~~

(i)(a) 2.16% to the natural resources projects state special revenue account established in 15-38-302;

(ii)(b) 2.02% to the natural resources operations state special revenue account established in 15-38-301;

(iii)(c) 2.95% to the orphan share account established in 75-10-743;

(iv)(d) 2.65% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 15-10-108; and

(v)(e) all remaining proceeds to the state general fund.

(5) A payment required pursuant to this section may be withheld if, for more than 90 days, a local government fails to:

(a) file a financial report required by 15-1-504;

(b) remit any amounts collected on behalf of the state as required by 15-1-504; or

(c) remit any other amounts owed to the state or another taxing jurisdiction.”

Section 3. Section 15-36-332, MCA, is amended to read:

“15-36-332. (Temporary) Distribution of taxes to taxing units – appropriation. (1) (a) Subject to 20-9-310 and subsection (9) of this section, by the dates referred to in subsection (6) of this section, the department shall distribute oil and natural gas production taxes allocated under 15-36-331(3) to each eligible county.

(b) Except as provided by subsection (9), by the dates referred to in subsection (6), the department shall distribute the amount deposited in the oil and gas natural resource distribution account under 15-36-331(2)(b) as provided in subsection (7) of this section.

(2) (a) Each county treasurer shall distribute the amount of oil and natural gas production taxes designated under subsection (1)(a), including the amounts referred to in subsection (2)(b), to the countywide elementary and high school retirement funds, countywide transportation funds, and eligible school districts according to the following schedule:

	Elementary Retirement	High School Retirement	Countywide Transportation	School Districts
Big Horn	14.81%	10.36%	2.99%	26.99%
Blaine	5.86%	2.31%	2.71%	24.73%
Carbon	3.6%	6.62%	1.31%	49.18%
Chouteau	8.1%	4.32%	3.11%	23.79%
Custer	6.9%	3.4%	1.19%	31.25%
Daniels	0	7.77%	3.92%	48.48%
Dawson	5.53%	2.5%	1.11%	35.6%
Fallon	0	7.63%	1.24%	42.58%
Fergus	7.88%	4.84%	2.08%	53.25%
Garfield	4.04%	3.13%	5.29%	26.19%
Glacier	11.2%	4.87%	3.01%	46.11%
Golden Valley	0	11.52%	2.77%	54.65%
Hill	6.7%	4.07%	1.59%	49.87%
Liberty	4.9%	4.56%	1.15%	35.22%
McCone	4.18%	3.19%	2.58%	43.21%
Musselshell	5.98%	4.07%	3.53%	32.17%
Petroleum	0	11.92%	4.59%	55.48%
Phillips	0.43%	6.6%	1.08%	41.29%

Pondera	6.96%	5.06%	1.94%	45.17%
Powder River	3.96%	2.97%	4.57%	22.25%
Prairie	0	8.88%	1.63%	36.9%
Richland	4.1%	3.92%	2.26%	43.77%
Roosevelt	9.93%	7.37%	2.74%	40.94%
Rosebud	3.87%	2.24%	1.05%	72.97%
Sheridan	0	3.39%	2.22%	47.63%
Stillwater	6.87%	4.86%	1.63%	41.16%
Sweet Grass	6.12%	6.5%	2.4%	37.22%
Teton	6.88%	8.19%	3.8%	29.43%
Toole	2.78%	4.78%	1.3%	43.56%
Valley	2.26%	12.61%	4.63%	41.11%
Wibaux	0	4.1%	0.77%	31.46%
Yellowstone	7.98%	4.56%	1.07%	52.77%
All other counties	3.81%	7.84%	1.81%	41.04%

(b) (i) The county treasurer shall distribute 9.8% of the Custer County share to the countywide community college district in Custer County.

(ii) The county treasurer shall distribute 14.5% of the Dawson County share to the countywide community college district in Dawson County.

(3) The remaining oil and natural gas production taxes for each county must be used for the exclusive use and benefit of the county, including districts within the county established by the county.

(4) (a) The county treasurer shall distribute oil and natural gas production taxes to school districts in each county referred to in subsection (2) as provided in subsections (4)(b) through (4)(d) and subject to the provisions of 20-9-310.

(b) The amount distributed to each K-12 district within the county is equal to oil and natural gas production taxes in the county multiplied by the ratio that oil and natural gas production taxes attributable to oil and natural gas production in the K-12 school district bear to total oil and natural gas production taxes attributable to total oil and natural gas production in the county and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a).

(c) For the amount to be distributed to each elementary school district and to each high school district under subsection (4)(d), the department shall first determine the amount of oil and natural gas production taxes in the high school district that is attributable to oil and natural gas production in each elementary school district that is located in whole or in part within the exterior boundaries of a high school district and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a).

(d) (i) The amount distributed to each elementary school district that is located in whole or in part within the exterior boundaries of a high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the elementary school district bear to the sum of the total mills of the elementary school district and the total mills of the high school district.

(ii) The amount distributed to the high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the high school district bear to the sum of the total mills of each elementary school district referred to in subsection (4)(c) and the total mills of the high school district.

(5) Oil and natural gas production taxes calculated for each school district under subsections (4)(b) through (4)(d) must be distributed to each school district as provided in 20-9-310.

(6) Subject to 20-9-310 and subsection (9) of this section, the department shall remit the amounts to be distributed in this section to the county treasurer by the following dates:

(a) On or before August 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending March 31 of the current year.

(b) On or before November 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending June 30 of the current year.

(c) On or before February 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending September 30 of the previous year.

(d) On or before May 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending December 31 of the previous year.

(7) The department shall distribute the funds received under 15-36-331(2)(b) to counties based on county oil and gas production. ~~Of the distribution to a county, one-third must be distributed to the county government and two-thirds must be distributed for distribution to incorporated cities and towns within the county. If there is more than one incorporated city or town within the county, the city-and-town allocation must be distributed to the cities and towns based on their relative populations.~~

(8) The distributions to taxing units and to counties and incorporated cities and towns under this section are statutorily appropriated, as provided in 17-7-502, from the state special revenue fund.

(9) A payment required pursuant to this section may be withheld if, for more than 90 days, a local government fails to:

(a) file a financial report required by 15-1-504;

(b) remit any amounts collected on behalf of the state as required by 15-1-504; or

(c) remit any other amounts owed to the state or another taxing jurisdiction. (Terminates June 30, 2020--sec. 38, Ch. 400, L. 2013.)

15-36-332. (Effective July 1, 2020) Distribution of taxes to taxing units – appropriation. (1) (a) Except as provided by subsection (9), by the dates referred to in subsection (6), the department shall distribute oil and natural gas production taxes allocated under 15-36-331(3) to each eligible county.

(b) Except as provided by subsection (9), by the dates referred to in subsection (6), the department shall distribute the amount deposited in the oil and gas natural resource distribution account under 15-36-331(2)(b) as provided in subsection (7) of this section.

(2) (a) Each county treasurer shall distribute the amount of oil and natural gas production taxes designated under subsection (1)(a), including the amounts referred to in subsection (2)(b), to the countywide elementary and high school retirement funds, countywide transportation funds, and eligible school districts according to the following schedule:

	Elementary Retirement	High School Retirement	Countywide Transportation	School Districts
Big Horn	14.81%	10.36%	2.99%	26.99%
Blaine	5.86%	2.31%	2.71%	24.73%

Carbon	3.6%	6.62%	1.31%	49.18%
Chouteau	8.1%	4.32%	3.11%	23.79%
Custer	6.9%	3.4%	1.19%	31.25%
Daniels	0	7.77%	3.92%	48.48%
Dawson	5.53%	2.5%	1.11%	35.6%
Fallon	0	7.63%	1.24%	42.58%
Fergus	7.88%	4.84%	2.08%	53.25%
Garfield	4.04%	3.13%	5.29%	26.19%
Glacier	11.2%	4.87%	3.01%	46.11%
Golden Valley	0	11.52%	2.77%	54.65%
Hill	6.7%	4.07%	1.59%	49.87%
Liberty	4.9%	4.56%	1.15%	35.22%
McCone	4.18%	3.19%	2.58%	43.21%
Musselshell	5.98%	4.07%	3.53%	32.17%
Petroleum	0	11.92%	4.59%	55.48%
Phillips	0.43%	6.6%	1.08%	41.29%
Pondera	6.96%	5.06%	1.94%	45.17%
Powder River	3.96%	2.97%	4.57%	22.25%
Prairie	0	8.88%	1.63%	36.9%
Richland	4.1%	3.92%	2.26%	43.77%
Roosevelt	9.93%	7.37%	2.74%	40.94%
Rosebud	3.87%	2.24%	1.05%	72.97%
Sheridan	0	3.39%	2.22%	47.63%
Stillwater	6.87%	4.86%	1.63%	41.16%
Sweet Grass	6.12%	6.5%	2.4%	37.22%
Teton	6.88%	8.19%	3.8%	29.43%
Toole	2.78%	4.78%	1.3%	43.56%
Valley	2.26%	12.61%	4.63%	41.11%
Wibaux	0	4.1%	0.77%	31.46%
Yellowstone	7.98%	4.56%	1.07%	52.77%
All other counties	3.81%	7.84%	1.81%	41.04%

(b) (i) The county treasurer shall distribute 9.8% of the Custer County share to the countywide community college district in Custer County.

(ii) The county treasurer shall distribute 14.5% of the Dawson County share to the countywide community college district in Dawson County.

(3) The remaining oil and natural gas production taxes for each county must be used for the exclusive use and benefit of the county, including districts within the county established by the county.

(4) (a) The county treasurer shall distribute oil and natural gas production taxes to school districts in each county referred to in subsection (2) as provided in subsections (4)(b) through (4)(d).

(b) The amount distributed to each K-12 district within the county is equal to oil and natural gas production taxes in the county multiplied by the ratio that oil and natural gas production taxes attributable to oil and natural gas production in the K-12 school district bear to total oil and natural gas production taxes attributable to total oil and natural gas production in the county and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a).

(c) For the amount to be distributed to each elementary school district and to each high school district under subsection (4)(d), the department shall first

determine the amount of oil and natural gas taxes in the high school district that is attributable to oil and natural gas production in each elementary school district that is located in whole or in part within the exterior boundaries of a high school district and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a).

(d) (i) The amount distributed to each elementary school district that is located in whole or in part within the exterior boundaries of a high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the elementary school district bear to the sum of the total mills of the elementary school district and the total mills of the high school district.

(ii) The amount distributed to the high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the high school district bear to the sum of the total mills of each elementary school district referred to in subsection (4)(c) and the total mills of the high school district.

(5) (a) Oil and natural gas production taxes calculated for each school district under subsections (4)(b) through (4)(d) must be distributed to each school district in the relative proportion of the mill levy for each fund.

(b) If a distribution under subsection (5)(a) exceeds the total budget for a school district fund, the board of trustees of an elementary or high school district may reallocate the excess to any budgeted fund of the school district.

(6) Except as provided by subsection (9), the department shall remit the amounts to be distributed in this section to the county treasurer by the following dates:

(a) On or before August 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending March 31 of the current year.

(b) On or before November 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending June 30 of the current year.

(c) On or before February 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending September 30 of the previous year.

(d) On or before May 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending December 31 of the previous year.

(7) The department shall distribute the funds received under 15-36-331(2)(b) to counties based on county oil and gas production. ~~Of the distribution to a county, one-third must be distributed to the county government and two-thirds must be distributed for distribution~~ to incorporated cities and towns within the county. If there is more than one incorporated city or town within the county, the city and town allocation must be distributed to the cities and towns based on their relative populations.

(8) The distributions to taxing units and to counties and incorporated cities and towns under this section are statutorily appropriated, as provided in 17-7-502, from the state special revenue fund.

(9) A payment required pursuant to this section may be withheld if, for more than 90 days, a local government fails to:

(a) file a financial report required by 15-1-504;

(b) remit any amounts collected on behalf of the state as required by 15-1-504; or

(c) remit any other amounts owed to the state or another taxing jurisdiction."

Section 4. Section 82-11-131, MCA, is amended to read:

"82-11-131. Privilege and license tax. (1) For the purpose of providing funds for defraying the expenses of the operation and enforcement of this chapter and expenses of the board, an operator or producer of oil and gas shall pay an assessment ~~not to exceed 3/10 of 1% of 0.3%~~ of the market value of each barrel of crude petroleum produced, saved and marketed, or stored within the state or exported from the state and the same rate on the market value of each 10,000 cubic feet of natural gas produced, saved and marketed, or stored within the state or exported from the state.

(2) The board shall, by rule adopted pursuant to the provisions of the Montana Administrative Procedure Act, fix ~~a percentage of the~~ ~~the amount of~~ the assessment and may from time to time reduce or increase the ~~amount~~ ~~percentage of~~ the assessment as the expenses chargeable against the oil and gas conservation fund may require. ~~However, the assessment fixed by the board may not exceed the limits prescribed in this section. The amount of the assessment must be a percentage factor, not to exceed 100%, of the rate set forth in subsection (1), and the same percentage factor must be applied by the board in fixing the amount of the assessment on each barrel of crude petroleum produced and each 10,000 cubic feet of natural gas produced. A producer of the crude petroleum and natural gas shall pay the assessment on each barrel of crude petroleum and each 10,000 cubic feet of natural gas produced for the producer, as well as for another, including a royalty holder.~~

(3) ~~The board shall give the department of revenue at least 90 days' notice of any change in the percentage of the rate adopted pursuant to this section.~~

(3)(4) For the purposes of this section, the provisions of Title 15, chapter 36, part 3, apply to the privilege and license tax assessment."

Section 5. Section 82-11-135, MCA, is amended to read:

"82-11-135. Money earmarked for board expenses. The state treasurer shall deposit all money distributed to the board under 15-36-331 and collected under this chapter in the state special revenue fund. ~~Subject to legislative fund transfers, the~~ The money must *first* be used for the purpose of paying all expenses of the board ~~and for no other purpose as provided in 15-36-331(2)(a) and then allocated as provided in 15-36-331(2)(b) and (2)(c).~~ The board shall use the money subject to biennial appropriations by the legislature. Income and interest from investment of the board's money in the state special revenue fund must be credited to the board."

Section 6. Section 90-6-1001, MCA, is amended to read:

"90-6-1001. Oil, gas, and coal natural resource accounts. (1) There is an oil and gas natural resource distribution account in the state special revenue fund. The collections allocated to the account from ~~15-36-304(7)(b) 15-36-331(2)(b)~~ must be deposited in the account to be used as provided in 15-36-332(7) ~~and (8).~~

(2) There is a coal natural resource account in the state special revenue fund. The collections allocated to the account from 15-35-108(9) must be deposited in the account. The money in the account is allocated to the coal board provided for in 2-15-1821 and may be used only for local impact grants provided for in 90-6-205 through 90-6-207 and costs related to the administration of the grant awards."

Section 7. Effective date. [This act] is effective July 1, 2019.

Section 8. Applicability. [This act] applies to oil and gas production occurring on or after July 1, 2019.

Approved May 9, 2019

CHAPTER NO. 415

[HB 658]

AN ACT GENERALLY REVISING HEALTH CARE LAWS; EXTENDING THE MEDICAID EXPANSION PROGRAM PERMANENT BY REVISING THE TERMINATION DATE OF THE MONTANA HEALTH AND ECONOMIC LIVELIHOOD PARTNERSHIP ACT; ESTABLISHING COMMUNITY ENGAGEMENT REQUIREMENTS FOR HELP ACT PARTICIPANTS; REVISING MEDICAID ELIGIBILITY VERIFICATION PROCEDURES; ESTABLISHING A HELP ACT EMPLOYER GRANT PROGRAM; ENACTING A FEE ON HEALTH SERVICE CORPORATIONS; ESTABLISHING A FEE ON HOSPITAL OUTPATIENT REVENUE; REVISING TAXPAYER INTEGRITY FEES; CREATING A SPECIAL REVENUE ACCOUNT; ALLOWING THE GOVERNOR TO AUTHORIZE A SUPPLEMENTAL APPROPRIATION TRANSFER FOR THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES; REQUIRING THE GOVERNOR TO REPORT TO THE LEGISLATIVE FINANCE COMMITTEE; EXTENDING RULEMAKING AUTHORITY; PROVIDING APPROPRIATIONS; REMOVING STATUTORY APPROPRIATIONS; AMENDING SECTIONS 15-30-2618, 15-30-2660, 15-31-511, 15-66-101, 15-66-102, 15-66-103, 15-66-201, 15-66-202, 15-66-203, 15-66-204, 15-66-205, 17-7-301, 17-7-311, 17-7-502, 33-30-102, 39-12-101, 39-12-103, 53-4-1110, 53-6-131, 53-6-133, 53-6-149, 53-6-160, 53-6-1302, 53-6-1303, 53-6-1304, 53-6-1305, 53-6-1306, 53-6-1307, AND 53-6-1311, MCA; REPEALING SECTION 53-6-1316, MCA; AMENDING SECTION 28, CHAPTER 368, LAWS OF 2015; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Community engagement requirements -- countable activities -- exemptions -- self-attestation. (1) Except as provided in subsections (3) through (5), an individual receiving coverage under this part shall participate in 80 hours of community engagement activities each month if the individual is at least 19 years of age but no more than 55 years of age.

(2) Time spent in one or more of the following activities may be counted toward the monthly requirement for community engagement:

- (a) employment;
- (b) work readiness or workforce training activities;
- (c) secondary, postsecondary, or vocational education;
- (d) substance abuse education or substance use disorder treatment;
- (e) other work or community engagement activities that promote work or work readiness or advance the health purpose of the medicaid program;
- (f) a community service or volunteer opportunity; or
- (g) any other activity required by the centers for medicare and medicaid services for the purpose of obtaining necessary waivers under this part.

(3) A program participant is exempt from the requirements of this section if the participant is:

- (a) medically frail as defined in 42 CFR 440.315;
- (b) blind or disabled;
- (c) pregnant;
- (d) experiencing an acute medical condition requiring immediate medical treatment;
- (e) mentally or physically unable to work;

- (f) a primary caregiver for a person who is unable to provide self-care;
 - (g) a foster parent;
 - (h) a full-time student in a secondary school;
 - (i) a student enrolled in the equivalent of at least six credits in a postsecondary or vocational institution;
 - (j) participating in or exempt from the work requirements of the temporary assistance for needy families program or the supplemental nutrition assistance program;
 - (k) under supervision of the department of corrections, a county jail, or another entity as directed by a court, the department of corrections, or the board of pardons and parole;
 - (l) experiencing chronic homelessness;
 - (m) a victim of domestic violence as defined by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 601, et seq.;
 - (n) living in an area with a high-poverty designation;
 - (o) a member of an entity subject to the fee provided for in 15-30-2660(3); or
 - (p) otherwise exempt under federal law.
- (4) A program participant is exempt from the requirements of this section if the department determines that the participant's income exceeds an amount equal to the average of 80 hours per month multiplied by the minimum wage.
- (5) A program participant is exempt from the requirements of this section in any reporting period in which the participant:
- (a) is hospitalized or caring for an immediate family member who has been hospitalized;
 - (b) has a documented serious illness or incapacity or is caring for an immediate family member with a documented serious illness or incapacity; or
 - (c) is impacted by a catastrophic event or hardship as defined by the department by rule that prevents the participant from complying with the community engagement requirements of this section.
- (6) The department may determine, through use of available administrative data, that a program participant:
- (a) meets the community engagement requirements of this section; or
 - (b) is exempt from meeting the community engagement requirements.

Section 2. Community engagement – reporting – suspension – audit. (1) The department shall adopt rules establishing:

- (a) requirements for reporting community engagement requirements;
 - (b) requirements for obtaining an exemption from the community engagement requirements as allowed under [section 1]; and
 - (c) a program to audit information provided by program participants to the department to ensure compliance with the requirements of [section 1].
- (2) The department shall notify a program participant who is not in compliance with the community engagement requirements that:
- (a) the participant has 180 days to come into compliance; and
 - (b) failure to comply within the 180-day period will be considered a voluntary suspension from the program unless the participant attests and the department confirms that the participant is exempt from the community engagement requirements as allowed under [section 1].
- (3) A participant who is suspended from the program for noncompliance may be reinstated 180 days after the date of suspension or upon a determination by the department that the program participant:
- (a) is exempt from the community engagement requirements; or
 - (b) has been in compliance with the requirements for 30 days. A participant reinstated pursuant to this subsection (3)(b) must remain under heightened monitoring by the department during the remainder of the suspension period.

(4) (a) If suspensions for noncompliance with community engagement requirements reach a level exceeding 5% of program participants, the department shall notify the legislative audit committee. Upon consideration of recommendations by the legislative auditor, the legislative audit committee shall select an independent third-party auditor to conduct an audit of the participants who were subject to suspension using statistically valid methods.

(b) (i) The audit must be completed within 90 days and the report made available to the legislative audit committee.

(ii) If the audit is not completed within 90 days, the department shall immediately cease suspensions until the audit is complete and the legislative audit committee has received the audit report.

(c) If the audit finds that more than 10% of the participants in the audit sample were suspended erroneously, the department shall cease further suspensions until the conclusion of the next general legislative session.

(d) If the audit finds that 10% or fewer of the participants in the audit sample were suspended erroneously, the department shall continue to suspend the enrollment of program participants who fail to meet the community engagement requirements.

(e) The cost of any audit under this section performed at the direction of the legislative audit committee must be paid by the department.

Section 3. Health risk analysis. (1) Within 1 year of a program participant's enrollment in the program, the department shall use available claims data and other information collected directly from the participant to assess whether the participant would be better served in a coordinated care or other treatment model approved by the department.

(2) Coordinated care models may include but are not limited to a:

(a) medicaid health home;

(b) patient-centered or advanced primary care medical home;

(c) substance use disorder or mental health treatment or other treatment or prevention programs;

(d) care coordination program;

(e) tribal health improvement program; or

(f) primary care case management arrangement.

(3) The department is not required to complete a separate analysis for a participant who:

(a) is already being served through a coordinated care model listed in subsection (2); or

(b) has received primary care or preventative care services within the last 12 months.

Section 4. Disenrollment for failure to report change in circumstances. (1) (a) A program participant shall report to the department a permanent increase in income that would affect the participant's eligibility for the program. The change must be reported within 30 days of the change in income.

(b) A short-term increase in income that is caused by overtime pay or other nonregular payments and that will not be sustained over time does not qualify as a permanent increase in income for the purposes of this section.

(2) Disenrollment may occur only after the state conducts an administrative review and determines the participant is ineligible for medicaid coverage under any eligibility category.

Section 5. Montana HELP Act special revenue account. (1) There is a Montana HELP Act account in the state special revenue fund to the credit of the department.

- (2) Money from the following sources must be deposited in the account:
 - (a) the taxpayer integrity fees provided for in 15-30-2660;
 - (b) the outpatient hospital utilization fee provided for in 15-66-102(3)(b);
 - (c) the health service corporation fee provided for in [section 6]; and
 - (d) premiums paid by members pursuant to 53-6-1307.
- (3) Money in the account must be used to pay for:
 - (a) the state share of costs, including benefits and administrative costs, of providing health care services under this part; and
 - (b) grants made under the HELP Act employer grant program provided for in [section 7].
- (4) Money from the account must be used for the benefits and administrative costs of providing health care services under this part before any general fund is expended on the costs.

Section 6. Health service corporation fee. (1) An authorized health service corporation as defined in 33-30-101 shall file with the commissioner, on or before March 1 of each year, a report in a format prescribed by the commissioner showing the total direct premium income during the preceding calendar year from all sources after deducting from the income applicable cancellations, returned premiums, or the amount of reduction in or refund of premiums.

(2) At the time the report is filed, and subject to 33-2-709, the health service corporation shall pay a fee to the commissioner on net premium income computed at the rate of 1%.

(3) If a health service corporation fails to pay the fee required under this section, the commissioner may:

- (a) suspend or revoke the certificate of authority for the health service corporation; and
- (b) impose a fine of \$100 plus interest on the delinquent amount at an annual interest rate of 12%.

(4) The commissioner may provide by rule a quarterly schedule for the payment of the fee.

(5) The commissioner shall deposit money collected from the fee into the Montana HELP Act special revenue account provided for in [section 5].

(6) The fee required under this section applies to a formerly authorized health service corporation if the corporation received premiums during the preceding calendar year while doing business as an authorized health service corporation in this state.

Section 7. Montana HELP Act employer grant program. (1) There is a Montana HELP Act employer grant program to encourage employers to hire or train program participants in skills that will allow them to:

- (a) obtain new or improved employment;
- (b) obtain employment with health care benefits;
- (c) earn a wage that allows them to purchase their own health insurance coverage; or
- (d) improve their long-term financial security.

(2) The department shall establish criteria for awarding grants. The criteria must take into consideration, at a minimum, the number of program participants affected and the likelihood that the proposed grant activity will improve:

- (a) the chances that program participants will succeed in obtaining employment meeting the goals of subsection (1); or
- (b) the financial security of program participants through efforts that include:
 - (i) financial and credit counseling; and

(ii) educational opportunities related to managing finances and setting and reaching financial goals.

(3) The department shall adopt rules establishing grant application, evaluation, and award criteria and processes.

Section 8. Section 15-30-2618, MCA, is amended to read:

“15-30-2618. Confidentiality of tax records. (1) Except as provided in 5-12-303, 15-1-106, 17-7-111, and subsections ~~(8)~~ and ~~(7) through~~ (9) of this section, in accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

(a) the amount of income or any particulars set forth or disclosed in any individual report or individual return required under this chapter or any other information secured in the administration of this chapter; or

(b) any federal return or federal return information disclosed on any return or report required by rule of the department or under this chapter.

(2) (a) The officers charged with the custody of the reports and returns may not be required to produce them or evidence of anything contained in them in an action or proceeding in a court, except in an action or proceeding:

(i) to which the department is a party under the provisions of this chapter or any other taxing act; or

(ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes when the reports or facts shown by the reports are directly involved in the action or proceedings.

(b) The court may require the production of and may admit in evidence only as much of the reports or of the facts shown by the reports as are pertinent to the action or proceedings.

(3) This section does not prohibit:

(a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any return or report filed in connection with the taxpayer's tax;

(b) the publication of statistics classified to prevent the identification of particular reports or returns and the items of particular reports or returns; or

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom an action or proceeding has been instituted in accordance with the provisions of 15-30-2630.

(4) The department may deliver to a taxpayer's spouse the taxpayer's return or information related to the return for a tax year if the spouse and the taxpayer filed the return with the filing status of married filing separately on the same return. The information being provided to the spouse or reported on the return, including subsequent adjustments or amendments to the return, must be treated in the same manner as if the spouse and the taxpayer filed the return using a joint filing status for that tax year.

(5) Reports and returns must be preserved for at least 3 years and may be preserved until the department orders them to be destroyed.

(6) Any offense against subsections (1) through (5) is punishable by a fine not exceeding \$500. If the offender is an officer or employee of the state, the offender must be dismissed from office or employment and may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in the case of a former officer or employee, for 1 year after conviction.

(7) This section may not be construed to prohibit the department from providing taxpayer return information and information from employers' payroll withholding reports to:

(a) the department of labor and industry to be used for the purpose of investigation and prevention of noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; *or*

(b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud, and abuse under the workers' compensation program; *or*

(c) the department of public health and human services to verify, as required under 53-6-133, the income reported by applicants for medical assistance.

(8) The department may permit the commissioner of internal revenue of the United States or the proper officer of any state imposing a tax on the incomes of individuals or the authorized representative of either officer to inspect the return of income of any individual or may furnish to the officer or an authorized representative an abstract of the return of income of any individual or supply the officer with information concerning an item of income contained in a return or disclosed by the report of an investigation of the income or return of income of an individual, but the permission may be granted or information furnished only if the statutes of the United States or of the other state grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter.

(9) On written request to the director or a designee of the director, the department shall furnish:

(a) to the department of justice all information necessary to identify those persons qualifying for the additional exemption for blindness pursuant to 15-30-2114(4), for the purpose of enabling the department of justice to administer the provisions of 61-5-105;

(b) to the department of public health and human services information acquired under 15-30-2616, pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public assistance fraud and abuse, provided notice to the applicant has been given;

(c) to the department of labor and industry:

(i) for the purpose of prevention and detection of fraud and abuse in and eligibility for benefits under the unemployment compensation and workers' compensation programs, information on whether a taxpayer who is the subject of an ongoing investigation by the department of labor and industry is an employee, an independent contractor, or self-employed; and

(ii) for the purpose of administering the apprenticeship tax credit provided for in 39-6-109, employer and apprentice information necessary to implement 15-30-2357, 15-31-173, and 39-6-109;

(d) to the department of fish, wildlife, and parks specific information that is available from income tax returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and fishing licenses;

(e) to the board of regents information required under 20-26-1111;

(f) to the legislative fiscal analyst and the office of budget and program planning individual income tax information as provided in 5-12-303, 15-1-106, and 17-7-111. The information provided to the office of budget and program planning must be the same as the information provided to the legislative fiscal analyst.

(g) to the department of transportation farm income information based on the most recent income tax return filed by an applicant applying for a refund under 15-70-430, provided that notice to the applicant has been given as provided in 15-70-430. The information obtained by the department of transportation is subject to the same restrictions on disclosure as are individual income tax returns.

(h) to the department of commerce tax information about a taxpayer whose debt is assigned to the department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The information provided to the department of commerce must be used for the purposes of preventing and detecting fraud or abuse and determining eligibility for grants or loans.

(i) to the superintendent of public instruction information required under 20-9-905. (Subsection (9)(i) terminates December 31, 2023--sec. 33, Ch. 457, L. 2015.)”

Section 9. Section 15-30-2660, MCA, is amended to read:

“15-30-2660. (Temporary) Taxpayer integrity fee fees. (1) (a) The department shall assess a fee as provided in subsection (2) for a taxpayer who:

(a) is a participant in the Montana Health and Economic Livelihood Partnership Act provided for in Title 53, chapter 6, part 13, and Title 39, chapter 12; and *owns:*

~~(b) has assets that exceed:~~

~~(i) a primary residence and attached property equity in real property or improvements to real property, or both, valued above that exceeds the limit established for homesteads under 70-32-104 by \$5,000 or more, if the real property is not agricultural land;~~

~~(ii) more than one light vehicle when the combined depreciated value of the manufacturer’s suggested retail price totals \$20,000 or more and the participant’s equity in the vehicles exceeds that combined depreciated value by \$5,000 or more; and or~~

~~(iii) a total of \$50,000 in cash and cash equivalent~~

~~(iii) agricultural land with a taxable value in excess of \$1,500 a year.~~

~~(b) For the purposes of subsection (1)(a):~~

~~(i) “real property or improvements to real property” does not include property held in trust by the United States for the benefit of a Montana federally recognized Indian tribe; and~~

~~(ii) the depreciated value of the manufacturer’s suggested retail price must be computed as provided in 61-3-503(2).~~

(2) The fee is \$100 a month plus an amount equal to an additional \$4 a month for:

~~(a) each \$1,000 in assets above the amounts established in subsection (1)(b) equity value above the limits established in subsections (1)(a)(i) and (1)(a)(ii); and~~

~~(b) each \$100 of taxable value in agricultural land above \$1,500.~~

(3) (a) The department shall assess a fee for an entity organized under 26 U.S.C. 501(d) and subject to taxes as provided in Title 15, chapter 31, if the entity has members who are receiving medicaid coverage under Title 53, chapter 6, part 13.

(b) The fee is equal to the state’s share of the average annual cost per program participant, as defined in 53-6-1303, multiplied by the number of individuals in the 26 U.S.C. 501(d) organization who are receiving medicaid coverage because they are eligible under 53-6-1304, less the total annual amount the entity’s members have paid in premiums.

(4) (a) For the purposes of calculating the fee required under subsection (3), the department of public health and human services shall provide the department of revenue by February 1 of each year with:

(i) the percentage of medicaid claims costs of program participants for which the state was responsible in the previous calendar year; and

(ii) the average annual cost of medical claims for program participants in the previous calendar year.

(b) *The department of public health and human services shall post the average annual cost for a program participant on the department's website by February 15 of each year.*

(5) *An organization shall pay the fee provided for in subsection (3) as follows:*

(a) *on or before the last day of each month, the organization shall pay an estimated fee equal to one-twelfth of the most recently published annual cost per program participant; and*

(b) *on or before April 15 of each year, the organization shall report and pay any additional amount owed for the prior year or request a refund of any overpayment made in the prior year.*

~~(3)(6)~~ (a) *The department of public health and human services shall coordinate with provide the department of public health and human services to obtain the information necessary to administer revenue with the names of program participants and other necessary information to assist the department of revenue in administering and enforcing this section.*

(b) *The department of justice shall provide the department of revenue with vehicle registration information for the administration of this section.*

~~(4)(7)~~ *Fees collected pursuant to this section must be deposited in the general fund Montana HELP Act special revenue account provided for in [section 5].*

~~(5)(8)~~ *The A fee remains until paid and may be collected through assessments against future income tax returns or through a civil action initiated by the state.*

(6)(9) *For the purposes of this section, the following definitions apply:*

(a) (i) *"Cash equivalent" means cash, including any money issued by the United States or by the sovereign government of another country, and, if reasonably convertible into cash with 1 year:*

(A) *personal property, including but not limited to vehicles, precious metal as defined in 30-10-103, jewelry, artwork, and gemstones; and*

(B) *personal property, including but not limited to certificates of deposit, certificates of stock, government or corporate bonds or notes, promissory notes, licenses, copyrights, patents, trademarks, contracts, software, and franchises.*

(ii) *Real estate and improvements to real estate are not cash equivalents.*

(a) (i) *"Agricultural land" means agricultural land as described in 15-7-202 that is taxed as class three property at the rate provided in 15-6-133.*

(ii) *The term does not include:*

(A) *parcels of land that are considered nonqualified agricultural land as provided in 15-6-133(1)(c);*

(B) *improvements to real property; or*

(C) *land held in trust by the United States for the benefit of a Montana federally recognized Indian tribe.*

(b) *"Light vehicle" has the meaning provided in 61-1-101.*

(c) *"Manufacturer's suggested retail price" has the meaning provided in 61-3-503(3). (Terminates June 30, 2019--sec. 28, Ch. 368, L. 2015.)"*

Section 10. Section 15-31-511, MCA, is amended to read:

"15-31-511. Confidentiality of tax records. (1) Except as provided in this section, in accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

(a) the amount of income or any particulars set forth or disclosed in any return or report required under this chapter or any other information relating to taxation secured in the administration of this chapter; or

(b) any federal return or information in or disclosed on a federal return or report required by law or rule of the department under this chapter.

(2) (a) An officer or employee charged with custody of returns and reports required by this chapter may not be ordered to produce any of them or evidence of anything contained in them in any administrative proceeding or action or proceeding in any court, except:

(i) in an action or proceeding in which the department is a party under the provisions of this chapter; or

(ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions of this chapter when the returns or reports or facts shown in them are directly pertinent to the action or proceeding.

(b) If the production of a return, report, or information contained in them is ordered, the court shall limit production of and the admission of returns, reports, or facts shown in them to the matters directly pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) the delivery of a certified copy of any return or report filed in connection with a return to the taxpayer who filed the return or report or to the taxpayer's authorized representative;

(b) the publication of statistics prepared in a manner that prevents the identification of particular returns, reports, or items from returns or reports;

(c) the inspection of returns and reports by the attorney general or other legal representative of the state in the course of an administrative proceeding or litigation under this chapter;

(d) access to information under subsection (4);

(e) the director of revenue from permitting a representative of the commissioner of internal revenue of the United States or a representative of a proper officer of any state imposing a tax on the income of a taxpayer to inspect the returns or reports of a corporation. The department may also furnish those persons abstracts of income, returns, and reports; information concerning any item in a return or report; and any item disclosed by an investigation of the income or return of a corporation. The director of revenue may not furnish that information to a person representing the United States or another state unless the United States or the other state grants substantially similar privileges to an officer of this state charged with the administration of this chapter.

(4) On written request to the director or a designee of the director, the department shall:

(a) allow the inspection of returns and reports by the legislative auditor, but the information furnished to the legislative auditor is subject to the same restrictions on disclosure outside that office as provided in subsection (1);

(b) provide corporate income tax and alternative corporate income tax information, including any information that may be required under Title 15, chapter 30, part 33, to the legislative fiscal analyst, as provided in 5-12-303 or 15-1-106, and the office of budget and program planning, as provided in 15-1-106 or 17-7-111. The information furnished to the legislative fiscal analyst and the office of budget and program planning is subject to the same restrictions on disclosure outside those offices as provided in subsection (1).

(c) provide to the department of commerce tax information about a taxpayer whose debt is assigned to the department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The information provided to the department of commerce must be used for the purposes of preventing and detecting fraud or abuse and determining eligibility for grants or loans.

(d) furnish to the superintendent of public instruction information required under 20-9-905;

(e) exchange with the department of labor and industry taxpayer and apprentice information necessary to implement 15-30-2357, 15-31-173, and 39-6-109; and

(f) provide the department of public health and human services with the information necessary to verify, as required under 53-6-133, the income reported by an applicant for medical assistance.

(5) A person convicted of violating this section shall be fined not to exceed \$500. If a public officer or public employee is convicted of violating this section, the person is dismissed from office or employment and may not hold any public office or public employment in the state for a period of 1 year after dismissal or, in the case of a former officer or employee, for 1 year after conviction. (Subsection (4)(d) terminates December 31, 2023--sec. 33, Ch. 457, L. 2015.)”

Section 11. Section 15-66-101, MCA, is amended to read:

“15-66-101. (Temporary) Definitions. For purposes of this chapter, the following definitions apply:

(1) (a) ~~“Hospital” means a facility licensed as a hospital pursuant to Title 50, chapter 5; has the meaning provided in 50-5-101 and includes a critical access hospital as defined in 50-5-101.~~

(b) The term does not include the Montana state hospital or a hospital or facility operated by the state, a political subdivision of the state, the United States, or an Indian tribe or any facility authorized under the Indian Health Care Improvement Act.

(2) (a) *“Hospital outpatient revenue” means the gross revenue from a hospital’s charges for services provided on an outpatient basis.*

(b) *The term does not include charges for professional services provided as part of the outpatient treatment.*

(2)(3) (a) *“Inpatient bed day” means a day of inpatient care provided to a patient in a hospital. A day begins at midnight and ends 24 hours later. A part of a day, including the day of admission, counts as a full day. The day of discharge or death is not counted as a day. If admission and discharge or death occur on the same day, the day is considered a day of admission and is counted as one inpatient bed day. Inpatient bed days include all inpatient hospital benefit days as defined for medicare reporting purposes in section 20.1 of chapter 3 of the centers for medicare and medicaid services publication 100-02, the Medicare Benefit Policy Manual. Inpatient bed days also include all nursery days during which a newborn infant receives care in a nursery.*

(b) The term does not include observation days or days of care in a swing bed, as defined in 50-5-101.

(3)(4) *“Patient” means an individual obtaining skilled medical and nursing services in a hospital. The term includes newborn infants.*

(4)(5) *“Report” means the report of inpatient bed days and hospital outpatient revenue required in 15-66-201.*

(5)(6) *“Utilization fee” or “fee” means the fee fees required to be paid for each inpatient bed day; as provided in 15-66-102. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003--see chapter compiler’s comment.)”*

Section 12. Section 15-66-102, MCA, is amended to read:

“15-66-102. (Temporary) Utilization fee for fees – inpatient bed days – hospital outpatient revenue. (1) Each hospital in the state shall pay to the department a utilization fee in the amount of ~~\$50~~ \$70 for each inpatient bed day.

(2) *Each hospital shall pay to the department a utilization fee in the amount of 0.90% of hospital outpatient revenue.*

(2)(3) (a) ~~Except as provided in subsection (3)(b), all proceeds from the collection of utilization fees, including penalties and interest, must, in~~

accordance with the provisions of 17-2-124, be deposited to the credit of the department of public health and human services in ~~a~~ *the* state special revenue account ~~as~~ provided for in 53-6-149.

(b) The department shall deposit 54% of the amount paid in accordance with subsection (2) in the Montana HELP Act special revenue account provided for in [section 5]. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003--see chapter compiler's comment.)"

Section 13. Section 15-66-103, MCA, is amended to read:

"15-66-103. (Temporary) Relation to other taxes and fees. The utilization fee *fees* imposed under 15-66-102 ~~is~~ *are* in addition to any other taxes and fees required to be paid by hospitals. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003--see chapter compiler's comment.)"

Section 14. Section 15-66-201, MCA, is amended to read:

"15-66-201. (Temporary) Reporting and collection of fee fees.

(1) On or before ~~January~~ *March* 31 of each year, a hospital shall file with the department an annual report of the number of inpatient bed days *and of hospital outpatient revenue* during the preceding year beginning January 1 and ending December 31. The report must be in the form prescribed by the department. The report must be accompanied by a payment in an amount equal to the ~~fee fees~~ required to be paid under 15-66-102.

(2) On or before January 31 of each year, the department of public health and human services shall provide the department with a list of hospitals licensed and operating in the state *and subject to the provisions of 15-66-102* during the preceding year beginning January 1 and ending December 31. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003--see chapter compiler's comment.)"

Section 15. Section 15-66-202, MCA, is amended to read:

"15-66-202. (Temporary) Audit -- records. (1) The department may audit the records and other documents of any hospital to ensure that the proper utilization ~~fee has~~ *fees have* been collected.

(2) The department may require the hospital to provide records and other documentation, including books, ledgers, and registers, necessary for the department to verify the proper amount of the utilization fee paid.

(3) A hospital shall maintain and make available for inspection by the department sufficient records and other documentation to demonstrate the number of inpatient bed days in the facility *and the hospital outpatient revenue* subject to the utilization ~~fee fees~~. The facility shall maintain these records for a period of at least 5 years from the date the report is due. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003--see chapter compiler's comment.)"

Section 16. Section 15-66-203, MCA, is amended to read:

"15-66-203. (Temporary) Periods of limitation. (1) Except as otherwise provided in this section, a deficiency may not be assessed or collected with respect to the year for which a report is filed unless the notice of additional fees proposed to be assessed is mailed within 5 years from the date the report was filed. For the purposes of this section, a report filed before the last day prescribed for filing is considered filed on the last day. If, before the expiration of the period prescribed for assessment of the ~~fee fees~~, the hospital consents in writing to an assessment after the 5-year period, the ~~fee fees~~ may be assessed at any time prior to the expiration of the period agreed upon.

(2) A refund or credit may not be paid or allowed with respect to the year for which a report is filed after 5 years from the last day prescribed for filing the report or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period, the hospital files a claim or the department has determined the existence of the overpayment

and has approved the refund or credit. If the hospital has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit is filed or a credit or refund is allowed if a claim is not filed is automatically extended. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003--see chapter compiler's comment.)"

Section 17. Section 15-66-204, MCA, is amended to read:

"15-66-204. (Temporary) Penalty and interest for delinquent fees -- waiver. If the fee fees for any hospital is are not paid on or before the due date of the report as provided in 15-66-201, penalty and interest, as provided in 15-1-216, must be added to the fee fees. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003--see chapter compiler's comment.)"

Section 18. Section 15-66-205, MCA, is amended to read:

"15-66-205. (Temporary) Estimated fee on failure to file Department authority to request information. For the purpose of ascertaining the correctness of any report or for the purpose of making an estimate of inpatient bed day use or hospital outpatient revenue of any hospital for which information has been obtained, the department may:

(1) examine or cause to have examined by any designated agent or representative any books, papers, records, or memoranda bearing upon on the matters required to be included in the report;

(2) require the attendance of any officer or employee of the facility rendering the report or the attendance of any other person in the premises having relevant knowledge; and

(3) take testimony and require production of any other material for its information. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003--see chapter compiler's comment.)"

Section 19. Section 17-7-301, MCA, is amended to read:

"17-7-301. Authorization to expend during first year of biennium from appropriation for second year -- proposed supplemental appropriation defined -- limit on second-year expenditures. (1) An agency may make expenditures during the first fiscal year of the biennium from appropriations for the second fiscal year of the biennium if authorized by the general appropriations act. An agency that is not authorized in the general appropriations act or in [House Bill No. 658] to make first-year expenditures may be granted spending authorization by the approving authority upon submission and approval of a proposed supplemental appropriation to the approving authority. The proposal submitted to the approving authority must include a plan for reducing expenditures in the second year of the biennium that allows the agency to contain expenditures within appropriations. If the approving authority finds that, due to an unforeseen and unanticipated emergency, the amount actually appropriated for the first fiscal year of the biennium with all other income will be insufficient for the operation and maintenance of the agency during the year for which the appropriation was made, the approving authority shall, after careful study and examination of the request and upon review of the recommendation for executive branch proposals by the budget director, submit the proposed supplemental appropriation to the legislative fiscal analyst.

(2) The plan for reducing expenditures required by subsection (1) is not required if the proposed supplemental appropriation is:

(a) due to an unforeseen and unanticipated emergency for fire suppression;

(b) requested by the superintendent of public instruction, in accordance with the provisions of 20-9-351, and is to complete the state's funding of

guaranteed tax base aid, transportation aid, or equalization aid to elementary and secondary schools for the current biennium; **or**

(c) requested by the department of public health and human services when the expenditures for the approved level of medicaid expansion benefits exceed the level of the appropriations for medicaid expansion benefits; or

(c)(d) requested by the attorney general and:

(i) is to pay the costs associated with litigation in which the department of justice is required to provide representation to the state of Montana; or

(ii) in accordance with the provisions of 7-32-2242, is to pay costs for which the department of justice is responsible for confinement of an arrested person in a detention center.

(3) Upon receipt of the recommendation of the legislative finance committee pursuant to 17-7-311, the approving authority may authorize an expenditure during the first fiscal year of the biennium to be made from the appropriation for the second fiscal year of the biennium. Except as provided in subsection (2), the approving authority shall require the agency to implement the plan for reducing expenditures in the second year of the biennium that contains agency expenditures within appropriations.

(4) The agency may expend the amount authorized by the approving authority only for the purposes specified in the authorization.

(5) The approving authority shall report to the next legislature in a special section of the budget the amounts expended as a result of all authorizations granted by the approving authority and shall request that any necessary supplemental appropriation bills be passed.

(6) As used in this part, "proposed supplemental appropriation" means an application for authorization to make expenditures during the first fiscal year of the biennium from appropriations for the second fiscal year of the biennium.

(7) (a) Except as provided in subsections (2) and (7)(b), an agency may not make expenditures in the second year of the biennium that, if carried on for the full year, will require a deficiency appropriation, commonly referred to as a "supplemental appropriation".

(b) An agency shall prepare and, to the extent feasible, implement a plan for reducing expenditures in the second year of the biennium that contains agency expenditures within appropriations. The approving authority is responsible for ensuring the implementation of the plan. If, in the second year of a biennium, mandated expenditures that are required by state or federal law will cause an agency to exceed appropriations or available funds, the agency shall reduce all nonmandated expenditures pursuant to the plan in order to reduce to the greatest extent possible the expenditures in excess of appropriations or funding. An agency may not transfer funds between fund types in order to implement a plan."

Section 20. Section 17-7-311, MCA, is amended to read:

"17-7-311. Proposed fiscal year transfer supplemental appropriation -- procedure. (1) A proposed supplemental appropriation to transfer appropriations between fiscal years of a biennium and all supporting documentation must be submitted to the legislative fiscal analyst. The governor may not approve a proposed fiscal year transfer supplemental appropriation until the governor receives the legislative finance committee's written report for that proposed fiscal year transfer supplemental appropriation unless:

(a) the report is not received within 90 calendar days from the date the proposed fiscal year transfer supplemental appropriation and supporting documentation were forwarded to the legislative finance committee, in which case the governor may approve the proposed fiscal year transfer supplemental appropriation; or

(b) there has been a waiver of the review and report requirements, as provided in subsection (4).

(2) The legislative fiscal analyst shall review each proposed fiscal year transfer supplemental appropriation submitted by the governor for compliance with statutory requirements and standards and to determine the expenditures that will be reduced in order to contain spending within legislative appropriations. The legislative fiscal analyst shall present a written report of this review to the legislative finance committee. Within 10 days after the legislative finance committee's consideration of the proposed fiscal year transfer supplemental appropriation, the legislative fiscal analyst shall submit the legislative finance committee's report to the governor.

(3) Upon receipt of the legislative finance committee's written report, the governor may approve or deny the proposed fiscal year transfer supplemental appropriation or may return the proposed fiscal year transfer supplemental appropriation to the requesting agency for further information. If the governor has returned the proposed fiscal year transfer supplemental appropriation to the requesting agency and the requesting agency resubmits the proposed fiscal year transfer supplemental appropriation to the governor, all procedures provided in this section apply to the resubmitted proposed fiscal year transfer supplemental appropriation.

(4) (a) If an emergency occurs that poses a serious threat to the life, health, or safety of the public, the legislative fiscal analyst may waive the written review and the legislative finance committee's written report required by this section. After a waiver, the legislative fiscal analyst may complete the written review.

(b) Upon receipt of the waiver, the governor may approve the proposed fiscal year transfer supplemental appropriation.

(c) A waiver affects only the legislative fiscal analyst's written review and the legislative finance committee's written report on the proposed fiscal year transfer supplemental appropriation. All other proposed fiscal year transfer supplemental appropriation requirements and standards remain in effect.

(5) Nothing in this part confers on the legislative finance committee authority to approve or deny a proposed fiscal year transfer supplemental appropriation.

(6) *For the biennium beginning July 1, 2019, the provisions of this section do not apply to a supplemental appropriation transfer for the department of public health and human services if the expenditures for the approved level of medicaid expansion benefits exceed the level of the appropriations for medicaid expansion benefits. Prior to approving a supplemental appropriation transfer for the department in that circumstance, the governor shall notify the legislative fiscal analyst in writing and shall subsequently report to the legislative finance committee on the dollar amount of the supplemental appropriation by September 30, 2020."*

Section 21. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations – definition – requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; ~~53-6-1304~~; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-416; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; ~~pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates June 30, 2019;~~ pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the inclusion

of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023, and pursuant to sec. 2, Ch. 340, L. 2017, and sec. 32, Ch. 429, L. 2017, is void for fiscal years 2018 and 2019; and pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027.)”

Section 22. Section 33-30-102, MCA, is amended to read:

“33-30-102. Application of chapter – construction of other related laws. (1) All health service corporations are subject to the provisions of this chapter. In addition to the provisions contained in this chapter, other chapters and provisions of this title apply to health service corporations as follows: *[section 6]*; 33-2-1212; 33-3-307; 33-3-308; 33-3-401; 33-3-431; 33-3-701 through 33-3-704; 33-17-101; Title 33, chapter 2, parts 13, 19, and 23; Title 33, chapter 3, part 6; Title 33, chapter 17, parts 2 and 10 through 12; and Title 33, chapters 1, 15, 18, 19, 22, and 32, except 33-22-111.

(2) A law of this state other than the provisions of this chapter applicable to health service corporations must be construed in accordance with the fundamental nature of a health service corporation, and in the event of a conflict, the provisions of this chapter prevail.”

Section 23. Section 39-12-101, MCA, is amended to read:

“39-12-101. (Temporary) Montana HELP Act workforce development – legislative findings – purpose. (1) The legislature finds that:

(a) Montana has a disproportionately high number of individuals who are eligible for medicaid compared to surrounding states;

(b) Montanans value independence and self-sufficiency;

(c) investing in Montana citizens is a legislative priority;

(d) participants in the HELP Act program are largely low-wage workers; and

(e) an opportunity exists to match individuals who need self-sustaining employment with the jobs the economy needs, including newly created health care jobs.

(2) The purpose of this chapter is to create a collaborative effort between the department of labor and industry and the department of public health and human services to:

(a) identify workforce development opportunities for program participants;

(b) gather information from state agencies on existing workforce development programs and opportunities; and

(c) establish a comprehensive plan for coordinating efforts and resources to provide workforce development opportunities.

(3) The department of labor and industry shall implement a workforce development program that:

(a) focuses on specific labor force needs within the state of Montana;

(b) has the goal of reducing the number of people depending on social programs, including the HELP Act program; and

(c) *provides grants to employers who hire and train program participants; and*

(e)(d) increases the earning capacity, economic stability, and self-sufficiency of program participants so that, among other benefits, they are able to purchase their own health insurance coverage. (~~Terminates June 30, 2019--sec. 28, Ch. 368, L. 2015.~~)”

Section 24. Section 39-12-103, MCA, is amended to read:

“39-12-103. (Temporary) Montana HELP Act workforce development – participation – report. (1) The department shall provide individuals receiving assistance for health care services pursuant to Title 53, chapter 6, part 13, with the option of participating in an employment or reemployment

assessment and in the workforce development program provided for in 39-12-101. The assessment must identify any probable barriers to employment that exist for the member.

(2) *The department shall contact each program participant subject to the community engagement requirements of [section 1] and assist the participant with completion of an employment or reemployment assessment. Based on the results of the assessment, the department shall identify services to help the individual address barriers to employment.*

(2)(3) (a) The department shall notify the department of public health and human services when a participant has received all services and assistance under subsection (1) that can reasonably be provided to the individual.

(b) The department is not required to provide further services under this section after it has provided the notification provided for in subsection (2)(a)(3)(a).

(c) A participant who is no longer receiving services under this section does not meet the criteria of 53-6-1307(6)(c) for the exemption granted under 53-6-1307(6).

(3)(4) ~~The department shall report the following information to the oversight committee provided for in 53-6-1316 legislative finance committee and the children, families, health, and human services interim committee:~~

(a) ~~the activities undertaken to establish a workforce development program for program participants and the employer grant program provided for in [section 7]; and~~

(b) ~~the number of participants in the workforce development program and the number of participants who have obtained employment or higher-paying employment;~~

(c) ~~the number of employers receiving grant awards and the number and types of activities, training, or jobs the employers provided; and~~

(d) ~~the total cost of providing workforce development services under this chapter, including related administrative costs.~~

(4)(5) To the extent possible, the department of public health and human services shall offset the cost of workforce development activities provided under this section by using temporary assistance for needy families reserve funds.

(5)(6) The department shall reduce fraud, waste, and abuse in determining and reviewing eligibility for unemployment insurance benefits by enhancing technology system support to provide knowledge-based authentication for verifying the identity and employment status of individuals seeking benefits, including the use of public records to confirm identity and to flag changes in demographics. ~~(Terminates June 30, 2019--sec. 28, Ch. 368, L. 2015.)~~

Section 25. Section 53-4-1110, MCA, is amended to read:

"53-4-1110. Exemption from resource test. An otherwise applicable eligibility resource test provided for in 53-6-113(6) and 53-6-131(7)(8) does not apply to plan applicants."

Section 26. Section 53-6-131, MCA, is amended to read:

"53-6-131. Eligibility requirements. (1) Medical assistance under the Montana medicaid program may be granted to a ~~person~~ *U.S. citizen or a qualified alien as defined in 8 U.S.C. 1641* who is determined by the department of public health and human services *to be a Montana resident and*, in its discretion, to be eligible as follows:

(a) The person receives or is considered to be receiving supplemental security income benefits under Title XVI of the Social Security Act, 42 U.S.C. 1381, et seq., and does not have income or resources in excess of the applicable medical assistance limits.

(b) The person would be eligible for assistance under the program described in subsection (1)(a) if that person were to apply for that assistance.

(c) The person is in a medical facility that is a medicaid provider and, but for residence in the facility, the person would be receiving assistance under the program in subsection (1)(a).

(d) The person is:

(i) under 21 years of age and in foster care under the supervision of the state or was in foster care under the supervision of the state and has been adopted as a child with special needs; or

(ii) under 18 years of age and is in a guardianship subsidized by the department pursuant to 41-3-444.

(e) The person meets the nonfinancial criteria of the categories in subsections (1)(a) through (1)(d) and:

(i) the person's income does not exceed the income level specified for federally aided categories of assistance and the person's resources are within the resource standards of the federal supplemental security income program; or

(ii) the person, while having income greater than the medically needy income level specified for federally aided categories of assistance:

(A) has an adjusted income level, after incurring medical expenses, that does not exceed the medically needy income level specified for federally aided categories of assistance or, alternatively, has paid in cash to the department the amount by which the person's income exceeds the medically needy income level specified for federally aided categories of assistance; and

(B) (I) in the case of a person who meets the nonfinancial criteria for medical assistance because the person is aged, blind, or disabled, has resources that do not exceed the resource standards of the federal supplemental security income program; or

(II) in the case of a person who meets the nonfinancial criteria for medical assistance because the person is pregnant, is an infant or child, or is the caretaker of an infant or child, has resources that do not exceed the resource standards adopted by the department.

(f) The person is a qualified pregnant woman or a child as defined in 42 U.S.C. 1396d(n).

(g) The person is under 19 years of age and lives with a family having a combined income that does not exceed 185% of the federal poverty level. The department may establish lower income levels to the extent necessary to maximize federal matching funds provided for in 53-4-1104.

(2) *The department shall require an applicant to provide proof of the applicant's residency in this state.*

(2)(3) (a) The department may establish income and resource limitations. Limitations of income and resources must be within the amounts permitted by federal law for the medicaid program. Any otherwise applicable eligibility resource test prescribed by the department does not apply to enrollees in the healthy Montana kids plan provided for in 53-4-1104.

(b) The department may not count as a resource an individual retirement account that was established by a person participating in the medicaid program for workers with disabilities provided for in 53-6-195 if:

(i) the person is no longer eligible for coverage under 53-6-195; and

(ii) the individual retirement account was established during the time the person was receiving benefits through the medicaid program for workers with disabilities.

(3)(4) The Montana medicaid program shall pay, as required by federal law, the premiums necessary for medicaid-eligible persons participating in

the medicare program and may, within the discretion of the department, pay all or a portion of the medicare premiums, deductibles, and coinsurance for a qualified medicare-eligible person or for a qualified disabled and working individual, as defined in section 6408(d)(2) of the federal Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, who:

(a) has income that does not exceed income standards as may be required by the Social Security Act; and

(b) has resources that do not exceed standards that the department determines reasonable for purposes of the program.

(4)(5) The department may pay a medicaid-eligible person's expenses for premiums, coinsurance, and similar costs for health insurance or other available health coverage, as provided in 42 U.S.C. 1396b(a)(1).

(5)(6) In accordance with waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department of public health and human services may grant eligibility for basic medicaid benefits as described in 53-6-101 to an individual receiving section 1931 medicaid benefits, as defined in 53-4-602, as the specified caretaker relative of a dependent child under the section 1931 medicaid program. A recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage, as provided in 53-6-101.

(6)(7) The department, under the Montana medicaid program, may provide, if a waiver is not available from the federal government, medicaid and other assistance mandated by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, and not specifically listed in this part to categories of persons that may be designated by the act for receipt of assistance.

(7)(8) Notwithstanding any other provision of this chapter, medical assistance must be provided to infants and pregnant women whose family income does not exceed income standards adopted by the department that comply with the requirements of 42 U.S.C. 1396a(l)(2)(A)(i) and whose family resources do not exceed standards that the department determines reasonable for purposes of the program.

(8)(9) Subject to appropriations, the department may cooperate with and make grants to a nonprofit corporation that uses donated funds to provide basic preventive and primary health care medical benefits to children whose families are ineligible for the Montana medicaid program and who are ineligible for any other health care coverage, are under 19 years of age, and are enrolled in school if of school age.

(9)(10) A person described in subsection (7)(8) must be provided continuous eligibility for medical assistance, as authorized in 42 U.S.C. 1396a(e)(5) through (e)(7).

(10)(11) Full medical assistance under the Montana medicaid program may be granted to an individual during the period in which the individual requires treatment of breast or cervical cancer, or both, or of a precancerous condition of the breast or cervix, if the individual:

(a) has been screened for breast and cervical cancer under the Montana breast and cervical health program funded by the centers for disease control and prevention program established under Title XV of the Public Health Service Act, 42 U.S.C. 300k, or in accordance with federal requirements;

(b) needs treatment for breast or cervical cancer, or both, or a precancerous condition of the breast or cervix;

(c) is not otherwise covered under creditable coverage, as provided by federal law or regulation;

(d) is not eligible for medical assistance under any mandatory categorically needy eligibility group; and

(e) has not attained 65 years of age.

(11)(12) Subject to the limitation in 53-6-195, the department shall provide medicaid coverage to workers with disabilities as provided in 53-6-195 and in accordance with 42 U.S.C. 1396a(a)(10)(A)(ii)(XIII) and (r)(2) and 42 U.S.C. 1396o.

(13) Nothing in subsection (1) may be construed as allowing the department to deny enrollment for a reason that is impermissible under federal law or regulation."

Section 27. Section 53-6-133, MCA, is amended to read:

"53-6-133. Eligibility determination – verification – provision of benefits. (1) The local office of public assistance shall promptly determine the eligibility of each applicant under this part in accordance with the rules of the department. Each applicant must be informed of the right to a fair hearing and of the confidential nature of the information given. The department, through the local office of public assistance, shall, after the hearing, determine whether or not the applicant is eligible for assistance under this part, and aid must be furnished promptly to eligible persons. Each applicant must receive written notice of the decision concerning the applicant's application, and the right of appeal is secured to the applicant under the procedures of 53-2-606.

(2) The local office of public assistance and the department may accept the federal social security administration's determination of eligibility for supplemental security income, Title XVI of the Social Security Act, as qualifying the eligible individuals to receive medical assistance under this part.

(3) (a) *The department shall verify the information provided on an application for medicaid under this part or under part 13, using data sources allowed under federal law or regulation and Montana department of revenue information as required under subsection (3)(b), to confirm an applicant's eligibility for the program before authorizing payment of benefits under the program.*

(b) *The department shall request income tax and wage income from the department of revenue as allowed under 15-30-2618 and 15-31-511 to verify the income information provided by applicants who may be eligible for coverage pursuant to 53-6-1304.*

(4) *The department shall establish by rule the documents to be used to verify that an applicant is a Montana resident."*

Section 28. Section 53-6-149, MCA, is amended to read:

"53-6-149. State special revenue fund account – administration.

(1) There is a hospital medicaid reimbursement account in the state special revenue fund provided for in 17-2-102.

(2) All money collected under 15-66-102, *except for the money deposited pursuant to 15-66-102(3)(b) into the Montana HELP Act special revenue account provided for in [section 5],* must be deposited in the account.

(3) Money in the account must be used by the department of public health and human services to provide funding *no later than May 5 of each year* for increases in medicaid payments to hospitals and for the costs of collection of the fee and other administrative activities associated with the implementation of increases in the medicaid payments to hospitals."

Section 29. Section 53-6-160, MCA, is amended to read:

"53-6-160. Truthfulness, completeness, and accuracy of submissions to medicaid agencies. (1) (a) A person who submits to a medicaid agency an application, claim, report, document, or other information that is or may be used to determine eligibility for medicaid benefits, eligibility to participate as a

provider, or the right to or the amount of payment under the medicaid program is considered to represent to the department, to the best of the person's knowledge and belief, that the item is genuine and that its contents, including all statements, claims, and representations contained in the document, are true, complete, accurate, and not misleading.

(b) This section applies to the information provided by a program participant to claim an exemption from community engagement requirements under [section 1] or to report community engagement activities under [section 2].

(2) (a) A provider has a duty to exercise reasonable care to ensure the truthfulness, completeness, and accuracy of all applications, claims, reports, documents, and other information and of all statements and representations made or submitted, or authorized by the provider to be made or submitted, to the department for purposes related to the medicaid program. The duty applies whether the applications, claims, reports, documents, other information, statements, or representations were made or submitted, or authorized by the provider to be made or submitted, on behalf of the provider or on behalf of an applicant or recipient being served by the provider.

(b) A provider has a duty to exercise reasonable care to ensure that a claim made or submitted to the department or its agents or employees for payment or reimbursement under the medicaid program is one for which the provider is entitled to receive payment and that the service or item is provided and billed according to all applicable medicaid requirements, including but not limited to identification of the appropriate procedure code or level of service and provision of the service by a person, facility, or other provider entitled to receive medicaid payment for the particular service.

(3) A person is considered to have known that a claim, statement, or representation related to the medicaid program was false if the person knew, or by virtue of the person's position, authority, or responsibility should have known, of the falsity of the claim, statement, or representation.

(4) A person is considered to have made or to have authorized to be made a claim, statement, or representation if the person:

- (a) had the authority or responsibility to:
 - (i) make the claim, statement, or representation;
 - (ii) supervise another who made the claim, statement, or representation; or
 - (iii) authorize the making of the claim, statement, or representation, whether by operation of law, business or professional practice, or office policy or procedure; and

(b) exercised or failed to exercise that authority or responsibility and, as a direct or indirect result, the false statement was made, resulting in a claim for a service or item when the person knew or had reason to know that the person was not entitled under applicable statutes, regulations, rules, or policies to medicaid payment or benefits for the service or item or for the amount of payment requested or claimed.

(5) (a) There is an inference that a person who signs or submits a document to a medicaid agency on behalf of or in the name of a provider is authorized by the provider to do so and is acting under the provider's direction.

(b) For purposes of this section, the term "signs" includes but is not limited to the use of facsimile, computer-generated and typed, or block-letter signatures.

(6) The department shall directly or by contract provide a program of instruction and assistance to persons submitting applications, claims, reports, documents, and other information to the department concerning the completion and submission of the application, claim, report, document, or

other information in a manner determined necessary by the department. The program must include:

(a) clear directions for the completion of applications, claims, reports, documents, and other information;

(b) examples of properly completed applications, claims, reports, documents, and other information;

(c) a method by which persons submitting applications, claims, reports, documents, and other information may, on a case-by-case basis, receive accurate, complete, specific, and timely advice and directions from the department before the completed applications, claims, reports, documents, and other information must be submitted to the department; and

(d) a method by which persons submitting applications, claims, reports, documents, and other information may challenge the department's interpretation or application of the manner in which the applications, claims, reports, documents, and other information must be completed.

(7) This section applies only for the purpose of civil liability under Title 53 and does not apply in a criminal proceeding."

Section 30. Section 53-6-1302, MCA, is amended to read:

"53-6-1302. (Temporary) Montana HELP Act program -- legislative findings and purpose. (1) There is a Montana Health and Economic Livelihood Partnership Act program established through a collaborative effort of the department of public health and human services and the department of labor and industry to:

(a) provide coverage of health care services for low-income Montanans;

(b) improve the readiness of program participants to enter the workforce or obtain better-paying jobs; and

(c) reduce the dependence of Montanans on public assistance programs.

(2) The legislature finds that improving the delivery of health care services to Montanans requires state government, health care providers, patient advocates, and other parties interested in high-quality, affordable health care to collaborate in order to:

(a) increase the availability of high-quality health care to Montanans;

(b) provide greater value for the tax dollars spent on the Montana medicaid program;

(c) reduce health care costs;

(d) provide incentives that encourage Montanans to take greater responsibility for their personal health;

(e) boost Montana's economy by reducing the costs of uncompensated care; and

(f) reduce or minimize the shifting of payment for unreimbursed health care costs to patients with health insurance.

(3) The legislature further finds that providing greater value for the dollars spent on the medicaid program requires considering options for delivering services in a more efficient and cost-effective manner, including but not limited to:

(a) offering incentives to encourage health care providers to achieve measurable performance outcomes;

(b) improving the coordination of care among health care providers who participate in the medicaid program;

(c) reducing preventable hospital readmissions; and

(d) exploring methods of medicaid payment that promote quality of care and efficiencies.

(4) The legislature further finds that assessing workforce readiness, and providing necessary job training or skill development, and establishing

community engagement requirements for individuals who need assistance with health care costs could help those individuals obtain employment that has health care coverage benefits or that would allow them to purchase their own health insurance coverage.

(5) The legislature further finds that:

(a) it is important to implement additional fraud, waste, and abuse safeguards to protect and preserve the integrity of the medicaid program and the unemployment insurance program for individuals who qualify for the programs; and

(b) state policymakers have an interest in testing the effectiveness of wellness incentives in order to collect and analyze information about the correlation between wellness incentives and health status.

(6) The purposes of the act are to:

(a) modify and enhance Montana's health care delivery system to provide access to high-quality, affordable health care for all Montana citizens; and

(b) provide low-income Montanans with opportunities to improve their readiness for work or to obtain higher-paying jobs.

(7) The department of labor and industry and the department of public health and human services shall maximize the use of existing resources in administering the program. (~~Terminates June 30, 2019--sec. 28, Ch. 368, L. 2015--~~)

Section 31. Section 53-6-1303, MCA, is amended to read:

"53-6-1303. (Temporary) Definitions. As used in this part, the following definitions apply:

(1) *"Community engagement"* means participation in the activities specified in [section 1] as a means to improve a program participant's well-being and opportunities for self-sufficiency.

(2) "Department" means the department of public health and human services provided for in 2-15-2201.

(3) "HELP Act" or "act" means the Montana Health and Economic Livelihood Partnership Act provided for in Title 39, chapter 12, and this part.

(4) "Member" means an individual enrolled in the Montana medicaid program pursuant to 53-6-131 or receiving medicaid-funded services pursuant to 53-6-1304.

(5) "Program participant" or "participant" means an individual enrolled in the Montana Health and Economic Livelihood Partnership Act program established in Title 39, chapter 12, and this part. (~~Terminates June 30, 2019--sec. 28, Ch. 368, L. 2015--~~)

Section 32. Section 53-6-1304, MCA, is amended to read:

"53-6-1304. (Temporary) Montana HELP Act program -- eligibility for coverage of health care services -- statutory appropriations -- federal special revenue -- exceptions. (1) An individual is eligible for coverage of health care services provided pursuant to this part if the individual meets the requirements of 42 U.S.C. 1396a(a)(10)(A)(i)(VIII).

(2) *The department may serve individuals who are eligible for medicaid-funded services pursuant to this part through the medical assistance program established in Title 53, chapter 6, part 1, if the individuals would be served more appropriately because the individuals:*

(a) *have exceptional health care needs, including but not limited to medical, mental health, or developmental conditions;*

(b) *live in a geographical area, including an Indian reservation, that would not be effectively or efficiently served through this part;*

(c) *need continuity of care that would not be available or cost-effective through this part;*

(d) are exempt under the waiver implementing this part as of July 1, 2019; or

(e) are otherwise exempt under federal law.

(2) Funds necessary to implement this part, including benefits and administrative costs, are statutorily appropriated, as provided in 17-7-502, from the general fund to the department.

(3) There is an account in the federal special revenue fund to the credit of the department for the payment of costs, including benefits and administrative costs, of providing health care services to individuals who are eligible for coverage pursuant to subsection (1).

(4) The federal medical assistance percentage received pursuant to 42 U.S.C. 1396d(y) must be deposited in the account provided for in subsection (3).

(5) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department for the purpose provided in subsection (3). (Terminates June 30, 2019--sec. 28, Ch. 368, L. 2015.)

Section 33. Section 53-6-1305, MCA, is amended to read:

“53-6-1305. (Temporary) Montana HELP Act program – delivery of health care services – third-party administrator – rulemaking.

(1) The department shall may contract as provided in Title 18, chapter 4, with one or more third-party administrators to assist in administering the delivery of health care services to members eligible under 53-6-1304, including but not limited to:

(a) establishing networks of health care providers;

(b) paying claims submitted by health care providers;

(c) collecting the premiums provided for in 53-6-1307;

(d) coordinating care;

(e) helping to administer the program; and

(f) helping to administer the medicaid program reforms as specified in 53-6-1311.

(2) ~~The~~ If the department decides to contract with a third-party administrator, the department shall determine the basic health care services to be provided through the arrangement with a the third-party administrator.

(3) (a) The department may exempt certain individuals who are eligible for medicaid-funded services pursuant to 53-6-1304 from receiving health care services through the an arrangement with a third-party administrator if the individuals would be served more appropriately through the medical assistance program established in Title 53, chapter 6, part 1, because the individuals:

(i) have exceptional health care needs, including but not limited to medical, mental health, or developmental conditions;

(ii) live in a geographical area, including an Indian reservation, for which the third-party administrator has been unable to make arrangements with sufficient health care providers to offer services to the individuals;

(iii) need continuity of care that would not be available or cost-effective through the arrangement with the third-party administrator; or

(iv) are otherwise exempt under federal law.

(b) The If the department contracts with a third-party administrator, the department shall:

(i) adopt rules establishing criteria for determining whether a member is exempt from receiving health care services through an arrangement with a the third-party administrator; and

(ii) provide coverage for exempted individuals through the medical assistance program established in Title 53, chapter 6, part 1; and

(4)(iii) ~~For~~ for members participating in the arrangement with the a third-party administrator, ~~the department shall~~ directly cover any service required under federal or state law that is not available through the arrangement with the third-party administrator.

(5) ~~The department shall:~~

(a) ~~seek federal authorization from the U.S. department of health and human services through a waiver authorized by 42 U.S.C. 1315 and other waivers or through other means, as may be necessary, to implement all of the provisions of Title 39, chapter 12, and this part; and~~

(b) ~~implement access to the health care services in accordance with the requirements necessary to receive the federal medical assistance percentage provided for by 42 U.S.C. 1396d(y).~~

(4) *The department may contract with a third-party administrator for the services allowed under subsections (1)(a) through (1)(f) only upon receipt of a federal waiver allowing a third-party administrator to provide services in accordance with this part.*

(6) ~~The department may provide medicaid-funded services to members eligible pursuant to 53-6-1304 only upon federal approval of any necessary waivers. (Terminates June 30, 2019--sec. 28, Ch. 368, L. 2015.)~~

Section 34. Section 53-6-1306, MCA, is amended to read:

"53-6-1306. (Temporary) Copayments -- exemptions -- report
Prohibition on copayments. (1) ~~A program participant shall make copayments to health care providers for health care services received pursuant to this part. The department may not require a program participant to make a copayment, to pay a coinsurance amount, or to meet a deductible amount for any service covered under this part.~~

(2) ~~Except as provided in subsection (3), the department shall adopt a copayment schedule that reflects the maximum copayment amount allowed under federal law. The total amount of copayments collected under this section must be capped at the maximum amount allowed by federal law and regulations:~~

(3) ~~The department may not require a copayment for:~~

(a) ~~preventive health care services;~~

(b) ~~generic pharmaceutical drugs;~~

(c) ~~immunizations provided according to a schedule established by the department that reflects guidelines issued by the centers for disease control and prevention; or~~

(d) ~~medically necessary health screenings ordered by a health care provider.~~

(4) ~~Each health care provider participating in the third-party arrangement shall report the following information annually to the oversight committee on the Montana Health and Economic Livelihood Partnership Act:~~

(a) ~~the total amount of copayments that the provider was unable to collect from participants; and~~

(b) ~~the efforts the health care provider made to collect the copayments. (Terminates June 30, 2019--sec. 28, Ch. 368, L. 2015.)~~

Section 35. Section 53-6-1307, MCA, is amended to read:

"53-6-1307. (Temporary) Premiums -- collection of overdue premiums -- nonpayment as voluntary disenrollment -- reenrollment -- exemptions. (1) (a) A program participant shall pay an annual premium, billed monthly, equal to 2% a percentage of the participant's modified adjusted gross income as determined in accordance with 42 U.S.C. 1396a(e)(14). *Except as provided in subsection (1)(b), the premiums must:*

(i) *be set at 2% of a participant's income in the first 2 years the participant receives coverage under this part; and*

(ii) increase by 0.5% in each subsequent year that a participant receives coverage, up to a maximum of 4% of the participant's income.

(b) A program participant who is exempt from the community engagement requirements as allowed under [section 1] is exempt from the premium increases in subsection (1)(a)(ii).

~~(b)(c)~~ Premiums paid pursuant to this section must be deposited in the ~~general fund~~ Montana HELP Act special revenue account provided for in [section 5].

(2) Within 30 days of a participant's failure to make a required payment, the ~~third-party administrator~~ department or a third-party administrator administering the program, if any, shall notify the participant and the department that payment is overdue and that all overdue premiums must be paid within 90 days of the date the notification was sent.

(3) (a) If a participant with an income of 100% of the federal poverty level or less fails to make payment for overdue premiums, the department shall provide notice to the department of revenue of the participant's failure to pay. The department of revenue shall collect the amount due for nonpayment by assessing the amount against the participant's annual income tax in accordance with Title 15, chapters 1 and 30.

(b) The debt remains until paid and may be collected through assessments against future income tax returns or through a civil action initiated by the state.

(4) If a participant with an income of more than 100% but not more than 138% of the federal poverty level fails to make the overdue payments within 90 days of the date the notification was sent, the department shall:

(a) follow the procedure established in subsection (3) for collection of the unpaid premiums; and

(b) consider the failure to pay to be a voluntary disenrollment from the program. The department may reenroll a participant in the program upon payment of the total amount of overdue payments.

(5) If a participant who has failed to pay the premiums does not indicate that the participant no longer wishes to participate in the program, the department may reenroll the person in the program when the department of revenue assesses the unpaid premium through the participant's income taxes.

(6) Participants who meet two of the following criteria are not subject to the voluntary disenrollment provisions of this section:

(a) discharge from United States military service within the previous 12 months;

(b) enrollment for credit in any Montana university system unit, a tribal college, or any other accredited college within Montana offering at least an associate degree, subject to the provisions of subsection (7);

(c) participation in a workforce program or activity established under Title 39, chapter 12; or

(d) participation in any of the following healthy behavior plans developed by a health care provider or third-party administrator, *if any*, or approved by the department:

(i) a medicaid health home;

(ii) a patient-centered medical home;

(iii) a cardiovascular disease, obesity, or diabetes prevention program;

(iv) a program restricting the participant to obtaining primary care services from a designated provider and obtaining prescriptions from a designated pharmacy;

(v) a medicaid primary care case management program established by the department;

- (vi) a tobacco use prevention or cessation program;
- (vii) a medicaid waiver program providing coverage for family planning services;
- (viii) a substance abuse treatment program; or
- (ix) a care coordination or health improvement plan administered by the third-party administrator.

(7) A participant seeking an exemption under subsection (6) is not eligible for the education exemption provided for in subsection (6)(b) for more than 4 years. ~~(Terminates June 30, 2019--sec. 28, Ch. 368, L. 2015.)~~

Section 36. Section 53-6-1311, MCA, is amended to read:

“53-6-1311. (Temporary) Medicaid program reforms. (1) To ensure that the Montana medicaid program is administered efficiently and effectively, the department shall strengthen existing programs that manage the way members obtain approval for medical services and shall establish additional programs designed to reduce costs and improve medical outcomes. The efforts may include but are not limited to:

- (a) establishing by rule requirements designed to strengthen the relationship between physicians and members enrolled in existing primary care case management programs;

- (b) strengthening data-sharing arrangements with providers to reduce inappropriate use of emergency room services and overuse of other services;

- (c) expanding to additional members any existing programs in which case managers and providers work with members with high-risk medical conditions to provide preventive care and advice and to make referrals for medical services;

- (d) establishing, within existing funds, one or more pilot programs to improve the health of members, including but not limited to efforts to increase pain management, decrease emergency department overuse, and prevent drug or alcohol addiction or abuse;

- (e) reviewing existing primary care case management programs to evaluate and improve their effectiveness; and

- ~~(f) reducing fraud, waste, and abuse in the medicaid program before, during, and after enrollment by enhancing technology system support to provide knowledge-based authentication for verifying the identity and financial status of individuals seeking benefits, including the use of public records to confirm identity and flag changes in demographics; and~~

- ~~(g)~~(f) engaging members with chronic or other medical or behavioral health conditions in coordinated care models that more closely monitor and manage a member's health to reduce costs or improve medical outcomes. These coordinated care models may include but are not limited to:

- (i) patient-centered medical homes;

- (ii) accountable care organizations;

- (iii) managed care organizations as defined in 42 CFR 438.2;

- (iv) health improvement programs;

- (v) health homes for behavioral health or other chronic conditions; and

- (vi) changes to current service delivery methods.

(2) *The department shall work to reduce fraud, waste, and abuse in the medicaid program before, during, and after enrollment by enhancing technology system support to provide knowledge-based authentication for verifying the identity and financial status of individuals seeking benefits, including the use of public records to confirm identity and flag changes in demographics.*

~~(2)(3)~~ The department may ask a third-party administrator under contract with the department to assist in efforts undertaken pursuant to ~~subsection (1)~~ subsections (1) and (2) when the activity can appropriately be handled by ~~the~~ a third-party administrator.

(3)(4) A care coordination entity used to deliver medicaid services shall meet all state standards for operation, including but not limited to solvency, consumer protection, nondiscrimination, network adequacy, care model design, and fraud and abuse standards. (~~Terminates June 30, 2019--sec. 28, Ch. 368, L. 2015.~~)”

Section 37. Report to legislature. The department shall report the following information to the legislative finance committee and the children, families, health, and human services interim committee quarterly:

(1) the number of individuals who were determined eligible for medicaid-funded services pursuant to 53-6-1304;

(2) demographic information on program participants;

(3) the average length of time that participants remained eligible for medical assistance;

(4) the number of participants subject to the fees provided for in 15-30-2660 and the total amount of fees collected;

(5) the amount of money deposited in the Montana HELP Act special revenue account, by source of funding;

(6) the level of participant engagement in wellness activities or incentives offered under this part;

(7) the number of participants who took part in community engagement activities, the number whose program participation was suspended for failure to take part in community engagement activities, and the number who were disenrolled from the program for failure to report a change in circumstances;

(8) the number of participants who reduced their dependency on the HELP Act program, either voluntarily or because of increased income levels; and

(9) the total cost of providing services under this part, including related administrative costs.

Section 38. Section 28, Chapter 368, Laws of 2015, is amended to read:

“Section 28. Termination. (1) [This act] terminates ~~June 30, 2019~~ *June 30, 2025*.

(2) The department may reapply for the same waiver received to implement the Montana Health and Economic Livelihood Partnership Act program if the waiver expires before ~~June 30, 2019~~ *June 30, 2025*.”

Section 39. Repealer. The following section of the Montana Code Annotated is repealed:

53-6-1316. Montana HELP Act oversight committee -- membership.

Section 40. Appropriations. (1) There is appropriated \$3.5 million from the Montana HELP Act special revenue account provided for in [section 5] to the department of labor and industry for the biennium beginning July 1, 2019, for the HELP Act employer grant program provided for in [section 7] and the workforce development program activities provided for in 39-12-103.

(2) The following amounts are appropriated to the department of public health and human services for the biennium beginning July 1, 2019, for the payment of costs, including benefits and administrative costs, of providing health care services to individuals who are eligible for coverage under Title 53, chapter 6, part 13:

Fiscal Year 2020	\$562,447,343	federal special revenue
	\$31,657,493	general fund
	\$33,165,464	state special revenue
Fiscal Year 2021	\$571,658,286	federal special revenue
	\$40,174,374	general fund
	\$35,200,535	state special revenue

(3) The following amounts are appropriated to the department of public health and human services for the biennium beginning July 1, 2019, for the payment of costs, including administrative costs, of providing health care services to individuals who are eligible for coverage of health care costs under Title 53, chapter 6, part 1 or part 13.

Fiscal year 2020	\$217,278,228	federal special revenue
	\$25,776,425	state special revenue
Fiscal year 2021	\$216,176,522	federal special revenue
	\$26,613,993	state special revenue

(4) There is appropriated, as a one-time-only appropriation, \$550,000 from the general fund to the department of revenue for the purposes of updating the department's integrated tax processing software to process the taxpayer integrity fees required under 15-30-2660.

(5) (a) Money from the Montana HELP Act special revenue account provided for in [section 5] must be used for the state special revenue appropriated under subsection (2).

(b) Money from the special revenue account provided for in 53-6-149 must be used for the state special revenue appropriated under subsection (3).

Section 41. Transition – direction to department of public health and human services – notification to legislature. (1) The legislature directs the department of public health and human services to notify the centers for medicare and medicaid services that passage and approval of [this act] constitutes legislative authorization to continue the current research and demonstration project approved under waiver No. 11-W00300/8 for the Montana Health and Economic Livelihood Partnership (HELP) Program Demonstration through December 31, 2020.

(2) The legislature directs the department of public health and human services to:

(a) apply no later than August 30, 2019, to the centers for medicare and medicaid services for any waivers needed to implement the provisions of [this act]; and

(b) carry out any activities before August 30, 2019, that are needed in order to develop and submit waiver proposals by August 30, 2019, including but not limited to:

(i) presenting any section 1115 waiver proposals to the medicaid advisory council and the children, families, health, and human services interim committee prior to submission to the centers for medicare and medicaid services, as required under 53-2-215;

(ii) providing for a public comment period at least 60 days before submission as required under 53-2-215; and

(iii) complying with any other public comment provisions required under federal law or regulation.

(3) The legislature directs the department of public health and human services to notify individuals enrolled in medicaid pursuant to Title 53, chapter 6, part 13, of the proposed changes to the program and the time periods within which the individuals would have to comply with the requirements of [this act] if the centers for medicare and medicaid services approves any waivers submitted to carry out the provisions of [this act]. Notification may be made at the time any waiver proposal is submitted or approved, at the department's discretion.

(4) The director of the department shall notify the legislative finance committee and the children, families, health, and human services interim committee of:

- (a) the date on which waiver approval is received or denied; and
- (b) if waiver approval is received, the date on which the community engagement requirements are implemented.

Section 42. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 43. Codification instruction. (1) [Sections 1 through 5 and 37] are intended to be codified as an integral part of Title 53, chapter 6, part 13, and the provisions of Title 53, chapter 6, part 13, apply to [sections 1 through 5 and 37].

(2) [Section 6] is intended to be codified as an integral part of Title 33, chapter 2, part 7, and the provisions of Title 33, chapter 2, part 7, apply to [section 6].

(3) [Section 7] is intended to be codified as an integral part of Title 39, chapter 12, and the provisions of Title 39, chapter 12, apply to [section 7].

Section 44. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 45. Contingent voidness -- notification to code commissioner.

(1) If the centers for medicare and medicaid services fails to provide any waivers necessary to implement the premium provisions of [section 35(1)], then the amendments to 53-6-1307(1) in [section 35(1)] are void.

(2) The director of the department shall notify the code commissioner of the occurrence of any determination made under this section and the date of the occurrence.

Section 46. Effective dates. (1) Except as provided in subsections (2) through (4), [this act] is effective July 1, 2019.

(2) [Sections 1 through 4 and sections 30, 31, 34, 35(1)(a) and (1)(b), and 36] are effective January 1, 2020.

(3) [Sections 37 through 39 and 41 through 48] are effective on passage and approval.

Section 47. Applicability. An individual enrolled in the expanded medicaid program provided for in Title 53, chapter 6, part 13, on the date the centers for medicare and medicaid services approves a waiver authorizing community engagement requirements shall comply with the community engagement requirements of [this act] within 180 days of the date the department of public health and human services has implemented the community engagement requirements.

Section 48. Termination -- contingency -- intent. (1) If a court of final disposition finds that the community engagement requirements provided for in [section 1] are invalid, [this act] terminates June 30, 2025.

(2) It is the intent of the legislature that if the contingency provided for in subsection (1) occurs, the legislature has an opportunity to consider issues of program integrity, reform, and cost-effectiveness to determine whether [this act] should continue.

(3) [Sections 19 and 20] regarding supplemental transfers terminate June 30, 2021.

Approved May 9, 2019

CHAPTER NO. 416

[HB 660]

AN ACT CREATING A MOBILE CRISIS UNIT PROGRAM; PROVIDING FOR LOCAL COMMUNITY GRANTS; PROVIDING RULEMAKING AUTHORITY; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 3], the following definitions apply:

(1) "Department" means the department of public health and human services provided for in 2-15-2201.

(2) "Mental health crisis" means a mental health condition that manifests in symptoms of sufficient severity that it is reasonable to expect the absence of immediate attention or intervention to result in:

- (a) serious jeopardy to the individual's health or well-being; or
- (b) a danger to others.

(3) "Mobile crisis intervention services" means mental health services provided by a mobile crisis unit at the location where a person is having a mental health crisis, as determined through screening by dispatch. Services are intended to:

- (a) stabilize acute psychiatric or behavioral symptoms;
- (b) evaluate treatment needs;
- (c) develop a plan to meet the ongoing needs of the person having a mental health crisis; and

(d) transport the person to a more appropriate facility for care if applicable.

(4) "Mobile crisis unit" means a team consisting of one mobile crisis unit professional and one or more support persons who provide mobile crisis intervention services and coordinate with dispatch, local law enforcement, emergency medical services personnel, and other appropriate local or state resources.

(5) "Mobile crisis unit professional" means:

- (a) a mental health professional, as defined in 37-38-102;
- (b) a social worker licensure candidate as defined in 37-22-102;
- (c) a professional counselor licensure candidate as defined in 37-23-102; or
- (d) a marriage and family therapist licensure candidate as defined in 37-37-102.

(6) "Support person" means:

(a) a physician, physician assistant, advanced practice registered nurse, or registered nurse licensed under Title 37;

(b) an emergency care provider as defined in 37-3-102; or

(c) a behavioral health peer support specialist as provided for in 37-38-101, who has completed additional training and certification requirements developed by the department.

Section 2. Department duties -- rulemaking authority. (1) The department shall adopt rules necessary for the administration of [sections 1 through 3].

(2) The rules may include but are not limited to:

(a) training and licensure requirements for mobile crisis unit personnel; and

(b) reporting requirements for the grant recipients.

Section 3. Grants -- reporting requirements. (1) Subject to appropriation by the legislature, the department shall award competitive grants to local communities for establishing mobile crisis units.

(2) A grant award under this section may not exceed \$125,000 and must be matched in the amount of \$1 in local government matching funds for each \$1 in grant money awarded.

(3) (a) At least one grant awarded under this section must be awarded to a rural community, unless no rural community applies for a grant under this section. Two or more rural communities located in close proximity to each other may apply jointly for a grant under this section.

(b) For the purposes of this subsection (3), "rural community" means a city, town, consolidated city-county, or unincorporated area with a population of no more than 15,000 inhabitants.

(4) A grant application must include, at a minimum, the following elements:

(a) a proposal containing information that is sufficient for the department to obtain an adequate understanding of how the program will operate, including the:

(i) days and hours proposed to be staffed;

(ii) criteria for hiring mobile crisis unit personnel;

(iii) plan for training and certification of mobile crisis unit professionals, which must include first aid, cardiopulmonary resuscitation, and nonviolent crisis resolution; and

(iv) plan for transporting mobile crisis units;

(b) the proposed budget;

(c) proof of available local government matching funds in the amount of \$1 for each \$1 applied for in grant money;

(d) written confirmation from the local law enforcement agency that the local law enforcement agency is amenable to coordinating with the mobile crisis unit and the proposed coordination protocol; and

(e) the name of the consulting company that will be utilized, if applicable.

(5) Grant recipients shall collect data and information on emergency room and jail diversion, crisis intervention, and connection with followup services and present the data and information in the form and manner prescribed by the department to support program evaluation, measure progress on performance goals, and allow for a state plan amendment establishing the reimbursement rate for mobile crisis services to be drafted and sent to the centers for medicare and medicaid services for approval.

(6) The department shall present a report containing the information received and processed in subsection (5) to the children, families, health, and human services interim committee by June 15, 2020.

Section 4. Appropriation. (1) There is appropriated \$500,000 from the state general fund to the department of public health and human services for use during the biennium beginning July 1, 2019, for the purposes of [section 3].

(2) The appropriation is intended to be a one-time-only appropriation.

Section 5. Coordination with existing programs -- legislative intent. The legislature intends that the department of public health and human services coordinate the provisions of [this act] with current suicide and mental health crisis response programs as recommended in the 2016 Montana suicide mortality review team report.

Section 6. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 7. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 53, chapter 21, part 12, and the provisions of Title 53, chapter 21, part 12, apply to [sections 1 through 3].

Section 8. Effective date. [This act] is effective July 1, 2019.

Section 9. Termination. [This act] terminates June 30, 2021.

Approved May 9, 2019

CHAPTER NO. 417

[HB 696]

AN ACT APPROPRIATING MONEY FOR SUICIDE PREVENTION EFFORTS; ESTABLISHING PURPOSES FOR USE OF THE MONEY; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriation for suicide prevention grants. (1) There is appropriated \$500,000 from the state special revenue account established in 17-6-603 to the department of public health and human services for the biennium beginning July 1, 2019, for grants made pursuant to 53-21-1101 and 53-21-1111 for suicide prevention activities.

(2) The appropriation must be used to:

(a) implement strategies that are developed, with assistance from the U.S. department of veterans affairs and the federal substance abuse and mental health services administration, as part of the mayor's challenge or the governor's challenge to prevent suicide among service members, veterans, and their families;

(b) continue state and tribal efforts in implementing the action steps of the Montana native youth suicide reduction strategic plan published in January 2017; and

(c) implement recommendations from the 2016 Montana suicide mortality review team report for evidence-based youth suicide prevention programs and mental health screening.

Section 2. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 3. Effective date. [This act] is effective July 1, 2019.

Approved May 9, 2019

CHAPTER NO. 418

[HB 716]

AN ACT AUTHORIZING THE ESTABLISHMENT OF THE IDAHO COLLEGE OF OSTEOPATHIC MEDICINE COOPERATIVE MEDICAL EDUCATION PROGRAM AND CONTRACT REQUIREMENTS FOR THE PROGRAM; REQUIRING THE BOARD OF REGENTS TO REQUEST FUNDING FOR ALL AVAILABLE SLOTS IN THE PROGRAM; PROVIDING FOR REPORTING OF PROGRESS TO THE EDUCATION INTERIM COMMITTEE; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Idaho college of osteopathic medicine cooperative medical education program. (1) The legislature directs the office of the

commissioner of higher education to negotiate the terms of a memorandum of understanding between the board of regents and the Idaho college of osteopathic medicine that establishes a cooperative medical education program for Montana residents at the college. The memorandum must be submitted to the legislature for approval prior to becoming effective.

(2) Terms for the memorandum of understanding must include:

(a) that the memorandum is not effective until the Idaho college of osteopathic medicine is fully accredited;

(b) that if the college is accredited by July 1, 2022, the program will make up to 10 slots available for Montana residents that fiscal year, with an additional maximum of 10 slots available each additional fiscal year until the program has a total of up to 40 slots for Montana residents;

(c) that students participating in the program are subject to the requirements of 20-25-810; and

(d) that the Montana university system will pay a state support fee equivalent to the established western interstate commission for higher education osteopathic medicine support fee per slot per year;

(3) The preliminary budget submitted by the board of regents pursuant to 17-7-111 must include funding for all available slots authorized under the program starting in fiscal year 2022.

Section 2. Report. The office of the commissioner of higher education shall report to the education interim committee on the progress of negotiations regarding the memorandum at each meeting of the committee during the 2021 interim.

Section 3. Appropriation. For the biennium beginning July 1, 2019, there is appropriated \$1,000 from the general fund to the Montana university system to use toward the costs of negotiating the agreement provided for in [section 1].

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 20, chapter 25, part 8, and the provisions of Title 20, chapter 25, part 8, apply to [section 1].

Section 5. Effective date. [This act] is effective on passage and approval.

Approved May 9, 2019

CHAPTER NO. 419

[HB 749]

AN ACT GENERALLY REVISING HUMAN TRAFFICKING LAWS; PROVIDING REQUIREMENTS FOR MASSAGE THERAPY BUSINESSES; PROVIDING AN APPROPRIATION; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Massage therapy businesses – requirements. (1) A massage therapy business shall conspicuously display on the premises the license of each massage therapist working at the business or, for a mobile practice, make the license readily available.

(2) (a) The department or a local designee, a local government official having jurisdiction, or a local law enforcement officer may enter a massage therapy business at any time during business hours to determine compliance with subsection (1).

(b) The action taken under subsection (2)(a) may not interrupt a treatment session that is in progress, except that a treatment session lasting 2 hours or more may be interrupted.

Section 2. Appropriation. (1) There is appropriated \$519,815 from the general fund to the department of justice for the biennium beginning July 1, 2019, for the purpose of establishing a two-person human trafficking enforcement team consisting of two agents from the division of criminal investigation.

(2) The duties of the human trafficking enforcement team must include but are not limited to:

(a) collaborating and coordinating between the department of justice and local law enforcement for the investigation and enforcement of online marketing and advertising in which human trafficking is known to occur;

(b) helping to lead and coordinate human trafficking sting operations;

(c) conducting interdiction operations on state highways to intercept, identify, and disrupt human trafficking smuggling and activity;

(d) providing training, outreach, education, and coordination on human trafficking at a state level; and

(e) undertaking efforts to collect and share data on human trafficking investigations and cases between all levels of law enforcement involved in work across the state related to human trafficking.

Section 3. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 4. Effective dates. (1) Except as provided in subsection (2), [this act] is effective October 1, 2019.

(2) [Section 2] and this section are effective July 1, 2019.

Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 37, chapter 33, part 4, and the provisions of Title 37, chapter 33, part 4, apply to [section 1].

Section 6. Termination. [Section 1] terminates June 30, 2023.

Approved May 9, 2019

CHAPTER NO. 420

[HB 751]

AN ACT GENERALLY REVISING LICENSURE OF PLUMBERS; REQUIRING A LICENSED MASTER PLUMBER TO PERSONALLY OBSERVE AND ATTEST TO SKILLS OF LICENSED JOURNEYMAN PLUMBERS OR APPRENTICES EMPLOYED BY THE LICENSED MASTER PLUMBER; PROVIDING A PENALTY OF FALSE SWEARING; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 37-69-304, 37-69-305, AND 37-69-323, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-69-304, MCA, is amended to read:

“37-69-304. Qualifications of applicants for journeyman plumber’s license – restriction on authority. (1) The following requirements must be met by applicants for a journeyman plumber’s license:

(a) a specific record of 5 years of legally obtained experience in the field of plumbing *with an attestation of skill by a supervising master plumber*. This experience requirement may be fulfilled by:

(i) working 5 years in a major phase of the plumbing business, verified by time or pay records, *and the attestation of a supervising master plumber; or by*

(ii) completing an apprenticeship program meeting the standards set by the department or the United States department of labor, bureau of apprenticeship; ~~or credit.~~ *Credit* toward this experience requirement may be given for time spent attending an accredited trade or other school specializing in training of value in the field of plumbing and approved by the board.

(b) satisfactory completion of a written examination prescribed by the board and conducted by the department, subject to 37-1-101(4), testing the applicant's knowledge of techniques and methods employed in the field of plumbing and, if required by the board, a practical demonstration establishing competence in the special skills required in the field of plumbing.

(2) A licensed journeyman plumber may perform work only in the employment of a licensed master plumber unless otherwise permitted by rule of the board. *Performing work in the employment of a licensed master plumber means the licensed master plumber shall observe the journeyman plumber's work at different times over the course of employment and for different levels of plumbing work. The board shall define the periods and the levels for which the master plumber shall attest the journeyman plumber's skills, as provided in subsection (1)."*

Section 2. Section 37-69-305, MCA, is amended to read:

"37-69-305. Qualifications of applicants for master plumber's license – restriction on authority. (1) The following requirements must be met by an applicant for a master plumber's license:

(a) evidence of 4 years of experience as a licensed journeyman plumber in the field of plumbing, verified by time or pay records of actual plumbing experience;

(b) evidence of 3 years of experience, *which may run concurrently with the requirement in subsection (1)(a):*

(i) working with a licensed master plumber *who has personally observed the applicant over a period specified by the board by rule and during application of plumbing skill levels, as determined by the board by rule; or*

(ii) in a supervisory capacity in the field of plumbing, ~~which may run concurrently with the requirement in subsection (1)(a); and~~

(c) satisfactory completion of an examination prescribed by the board for master plumbers testing the applicant's knowledge of the field of plumbing and demonstrating skill and ability in the field of plumbing.

(2) For purposes of subsection (1), 1 year of experience is 1,500 hours or more of work in a continuous 12-month period.

(3) A master plumber may not allow the master plumber's license to be used by any person or firm, corporation, or business other than the master plumber's own for the purpose of obtaining permits or for doing plumbing work under the license."

Section 3. Section 37-69-323, MCA, is amended to read:

"37-69-323. Restrictions on and responsibility for employees of master plumber. A licensed master plumber may employ only apprentice plumbers registered with the state department of labor and industry and only journeyman plumbers who are licensed by the state of Montana. A master plumber is responsible for assuring that all work performed by ~~such employees~~ *the journeyman plumber or apprentice employed by the licensed master plumber* is in compliance with the state plumbing code. *The licensed master plumber may be charged with unprofessional conduct under 37-1-316 and held liable for false swearing, as provided in 45-7-202, if the licensed master plumber provides an assurance but has not personally observed a portion of the plumbing work*

performed by the employed journeyman plumber or apprentice. The board shall provide by rule what portion of the plumbing work must be personally observed by the licensed master plumber."

Approved May 9, 2019

CHAPTER NO. 421

[HB 754]

AN ACT CREATING THE MONTANA UNIVERSITY SYSTEM 2-YEAR EDUCATION RESTRUCTURING REVIEW COMMISSION; PROVIDING FOR COMMISSION MEMBERS AND DUTIES; PROVIDING AN APPROPRIATION; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

WHEREAS, the Board of Regents and the Legislature incorporated the vocational-technical institutions into the Montana University System over 25 years ago; and

WHEREAS, enrollment at 2-year colleges remains relatively low compared to other states; and

WHEREAS, a reexamination of the structure of 2-year education in Montana is warranted.

Be it enacted by the Legislature of the State of Montana:

Section 1. Montana university system restructuring review commission – membership. (1) There is a Montana university system restructuring review commission. The commission is allocated to the legislative services division for staffing services and administrative purposes only.

(2) The commission consists of the following members:

(a) four members of the house of representatives, two of whom must be appointed by the speaker of the house and two of whom must be appointed by the house minority leader;

(b) four members of the senate, two of whom must be appointed by the senate president and two of whom must be appointed by the senate minority leader;

(c) two members of the board of regents, appointed by the presiding officer of the board of regents;

(d) a member of the board of public education, appointed by the presiding officer of the board of public education;

(e) the president of Montana associated students, or the president's designee;

(f) two members appointed by the governor, one of whom must be a representative of the tribal colleges; and

(g) two members of the public, one of whom must be appointed by the senate president, and one of whom must be appointed by the speaker of the house.

(3) Appointments under subsection (2) must be made within 60 days after [the effective date of this act].

(4) A vacancy on the commission must be filled in the same manner as the original appointment.

(5) The commission shall select a presiding officer from among its legislative members.

(6) The commission shall meet at least quarterly.

(7) Decisions of the commission must be made by majority vote of the commission members.

(8) Members of the commission must be compensated as provided in 2-15-124 and must be reimbursed for travel expenses as provided in 2-18-501 through 2-18-503. Members of the commission who are full-time salaried officers or employees of this state or of any political subdivision of this state are entitled to their regular compensation. Legislator members must be compensated as provided in 5-2-302.

(9) The legislative services division shall provide staff assistance to the commission. The legislative fiscal division, the governor's office of budget and program planning, and the Montana university system shall provide information upon request.

Section 2. Duties. The commission shall:

(1) review the history and reasons for the Montana university system incorporating vocational-technical institutions in the system;

(2) analyze the impacts of the restructuring on the efficiency and effectiveness of 2-year education in the university system;

(3) consider how the university system addresses student demand for career and technical education training within its 2-year colleges;

(4) examine the potential for restructuring 2-year education in the Montana university system to enhance offerings in career and technical education;

(5) review the governance and organizational structures of university systems in other states and consider whether a different structure would lead to a more effective and efficient university system in Montana; and

(6) prepare a report of findings and recommendations for submission to the 67th legislature.

Section 3. Appropriation. There is appropriated \$57,000 from the general fund to the legislative services division for fiscal years 2020 and 2021 for the purposes of funding the commission and the study as provided in [sections 1 and 2].

Section 4. Contingent voidness. (1) Pursuant to Joint Rule 40-65, if [this act] does not include an appropriation prior to being transmitted to the governor, then [this act] is void.

(2) If the appropriation in [section 3] is vetoed, then [this act] is void.

Section 5. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 3] is effective July 1, 2019.

Section 6. Termination. [This act] terminates June 30, 2021.

Approved May 9, 2019

CHAPTER NO. 422

[HB 5]

AN ACT APPROPRIATING MONEY FOR CAPITAL PROJECTS FOR THE BIENNium ENDING JUNE 30, 2021; PROVIDING FOR OTHER MATTERS RELATING TO THE APPROPRIATIONS; PROVIDING FOR A TRANSFER OF FUNDS FROM THE STATE GENERAL FUND TO THE LONG-RANGE BUILDING PROGRAM ACCOUNT; PROVIDING APPROVAL OF LEASED SPACE IN ACCORDANCE WITH SECTION 2-17-101(5), MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. For the purposes of [sections 1 through 10], unless otherwise stated, the following definitions apply:

(1) "Authority only" means approval provided by the legislature to expend money that does not require an appropriation, including grants, donations, auxiliary funds, proprietary funds, and nonstate university funds.

(2) "Capital project" means the acquisition of land or improvements or the planning, capital construction, environmental cleanup, renovation, furnishing, or major repair projects authorized in [sections 1 through 8].

(3) "LRBP" means the long-range building program account in the capital projects fund type provided for in 17-7-205.

(4) "Other funding sources" means money other than LRBP money, state special revenue, or federal special revenue that accrues to an agency under the provisions of law.

Section 2. Capital projects appropriations and authorizations. The following money is appropriated to the department of administration for the indicated capital projects from the indicated sources. Funds not requiring legislative appropriation are included for the purpose of authorization. The department of administration is authorized to transfer the appropriations, authority, or both among the necessary fund types for these projects:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Authority Only	Total
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DEPARTMENT OF ADMINISTRATION

Life Safety and Deferred Maintenance, Statewide

1,550,000	1,550,000
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If revenues received in the LRBP fund are not sufficient to pay for the appropriations attributed to the LRBP fund in this act, the department of administration shall reduce spending on projects in the Life Safety and Deferred Maintenance, Statewide appropriation by an amount equal to one-half of the revenue shortfall.

Life Safety and Deferred Maintenance, Capitol Complex

3,000,000	3,000,000
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State special revenue funds consist of capitol land grant funds.

Capitol Building Improvements

2,450,000	2,450,000
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State special revenue funds consist of capitol land grant funds. If revenues received in the capitol land grant fund are not sufficient to pay for the appropriations attributed to the capitol land grant fund in this act, the department of administration shall reduce spending on the Capitol Building Improvements appropriation by an amount equal to the revenue shortfall.

Update Capitol Complex Master Plan & Space Analysis

250,000	250,000
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State special revenue funds consist of capitol land grant funds.

DEPARTMENT OF LIVESTOCK

Veterinary Diagnostic Lab - Planning Only

100,000	100,000
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DEPARTMENT OF CORRECTIONS

Food Factory Expansion

3,000,000	3,000,000
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Authority only funds consist of Montana Correctional Enterprises proprietary funds.

Purchase MSP TSCTC Fence

1,310,873	1,310,873
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DEPARTMENT OF FISH, WILDLIFE, AND PARKS

Hatchery Maintenance, Statewide

1,200,000	750,000	1,950,000
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Upgrade Missoula Headquarters		
	1,350,000	1,350,000
Glasgow Headquarters Addition and Meeting Room		
	1,700,000	1,700,000
Construct Lewistown Area Office		
	1,500,000	1,500,000
Administrative Facilities, Major Maintenance		
	2,400,000	2,400,000
DEPARTMENT OF JUSTICE		
Construct Glendive Highway Patrol Building and Storage		
	2,795,000	2,795,000
DEPARTMENT OF MILITARY AFFAIRS		
Indoor Firing Ranges Repurposing, Statewide		
	970,100	970,100
PT/Rec Center Addition and Alteration, Ft. Harrison		
	2,000,000	2,000,000
Military Cemetery Expansions, Ft. Harrison and Missoula		
	4,000,000	4,000,000
FMS #3 Female Latrines and Remodel		
	702,900	702,900
FTH Weapons Cleaning Facility	1,700,000	1,700,000
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES		
Southwestern Montana Veterans' Home		
	5,000,000	5,000,000
Any remaining balance of LRBP funds not needed for completion of the Southwestern Montana Veterans' Home is reappropriated to the department of administration for Life Safety and Deferred Maintenance, Statewide.		
Construct Chapel, MT Veterans' Home, Columbia Falls		
	750,000	750,000
DEPARTMENT OF TRANSPORTATION		
Equipment/Office Buildings, Statewide		
	2,630,000	2,630,000
Remodel Headquarters Office, Wolf Point		
	770,000	770,000
Remodel/Expand Yellowstone Airport Terminal		
	13,500,000	1,200,000 14,700,000
MONTANA UNIVERSITY SYSTEM		
Life Safety and Deferred Maintenance, MUS Statewide		
	4,550,000	4,550,000
If revenues received in the LRBP fund are not sufficient to pay for the appropriations attributed to the LRBP fund in this act, the department of administration shall reduce spending on projects in the Life Safety and Deferred Maintenance, MUS Statewide appropriation by an amount equal to one-half of the revenue shortfall.		
Construct American Indian Hall, MSU		
	12,000,000	12,000,000
Authority only is an increase to \$8,000,000 approved in Chapter 560 of the Session Laws of 2005 for the Native American Student Center, MSU-Bozeman.		
Remodel Harrison Hall, Hospitality Management, Gallatin College, MSU		
	4,000,000	4,000,000
Facilities Services Yard Relocation, MSU		
	9,000,000	9,000,000
Visual Communications Building Addition, MSU		
	12,000,000	12,000,000

Renovate Renne Library, MSU	1,500,000	1,500,000
Upgrade Donaldson Hall, MSU-Northern	6,000,000	6,000,000
Upgrade McKenzie Hall Systems, MSU-Northern	2,000,000	2,000,000
TEACHERS' RETIREMENT SYSTEM		
Renovate TRS Building	550,000	550,000

Authority only funds consist of Teachers' Retirement System funds.

Section 3. Capital Improvements. (1) The following money is appropriated to the department of fish, wildlife, and parks in the indicated amounts for the purpose of making capital improvements to statewide facilities. Funds not requiring legislative appropriation are included for the purpose of authorization. The department of fish, wildlife, and parks is authorized to transfer the appropriations, authority, or both among the necessary fund types for these projects:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Authority Only	Total
Future Fisheries, Statewide		1,250,000			1,250,000
Fishing Access Site Protection, Statewide		1,790,000			1,790,000
Community Fishing Ponds, Statewide		100,000			100,000
Fish Passage Construction, Statewide			1,291,000	549,000	1,840,000
Wildlife Habitat Maintenance, Statewide		1,000,000	150,000		1,150,000
Forest Management, Statewide		400,000			400,000
Migratory Bird Program, Statewide		650,000			650,000
Home to Hunt Access, Statewide		220,000			220,000
Upland Game Bird Enhancement Program, Statewide		954,000			954,000
Smith River Corridor		200,000			200,000
Grants Program, Statewide		304,400	5,000,000		5,304,400
Parks Major Maintenance, Statewide		2,000,000			2,000,000
FAS NRD Yellowstone Pipeline Settlement				500,000	500,000
Wildlife Habitat Improvement, Statewide			4,000,000		4,000,000
Milltown State Park Improvements		50,000	145,000	100,000	295,000

(2) Authority is granted to the Montana university system in the indicated amount for the purpose of making capital improvements to campus facilities. Authority only funds may include federal special revenue, donations, grants, auxiliary funds, proprietary funds, and nonstate university funds. All costs for the operations and maintenance of any new improvements constructed

under this authorization must be paid by the Montana university system from nonstate sources:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Authority Only	Total
General Spending Authority, MUS All Campuses				16,000,000	16,000,000

(3) The following money is appropriated to the department of military affairs in the indicated amount for the purpose of making capital improvements to statewide facilities. All costs for the operation and maintenance of any new improvements constructed with these funds must be paid by the department of military affairs from nonstate sources:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Authority Only	Total
Federal Spending Authority			3,000,000		3,000,000

(4) The following money is appropriated to the department of transportation in the indicated amount for the purpose of making capital improvements as indicated:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Authority Only	Total
Maintenance, Repair, and Small Projects, Statewide					
		2,300,000			2,300,000

(5) The following money is appropriated to the department of environmental quality in the indicated amount from state building energy conservation funds for the purpose of making capital improvements as indicated:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Authority Only	Total
Energy Improvements, Statewide					
		3,600,000			3,600,000

State special revenue funds consist of state building energy conservation funds of the capital fund type.

Section 4. Land acquisition appropriations. The following money is appropriated to the department of fish, wildlife, and parks in the indicated amounts for purposes of land acquisition, land leasing, easement purchase, or development agreements. The department of fish, wildlife, and parks is authorized to transfer the appropriations, authority, or both among the necessary fund types for these projects:

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Authority Only	Total
Habitat Montana		8,000,000			8,000,000
Fishing Access Site Acquisition, Statewide		260,000			260,000
Bighorn Sheep Habitat		220,000			220,000

Section 5. Planning and design. The department of administration may proceed with the planning and design of capital projects in [section 2] prior to the receipt of other funding sources. The department may use interentity loans in accordance with 17-2-107 to pay planning and design costs incurred before the receipt of funding from another funding source.

Section 6. Capital projects -- contingent funds. If a capital project is financed in whole or in part with appropriations contingent on the receipt of other funding sources, the department of administration may not let the project for bid until the agency has submitted a financial plan for approval by the director of the department of administration. A financial plan may not be approved by the director if:

(1) the level of funding provided under the financial plan deviates substantially from the funding level provided in [section 2] for that project; or

(2) the scope of the project is substantially altered or revised from the description presented for that project in the 2021 biennium long-range building program presented to the 66th legislature.

Section 7. Review by department of environmental quality. The department of environmental quality shall review capital projects authorized in [section 2] for potential inclusion in the state building energy conservation program under Title 90, chapter 4, part 6. When a review shows that a capital project will result in energy improvements, that project must be submitted to the energy conservation program for funding consideration. Funding provided under the energy conservation program guidelines must be used to offset or add to the authorized funding for the project, and the amount will be dependent on the annual utility savings resulting from the facility improvement. Agencies must be notified of potential funding after the review.

Section 8. Capital project appropriation and authorization. The following money is appropriated to the department of administration after December 31, 2020, for the indicated capital project from the indicated source. The department of administration may not commence planning, design, or construction activities until on or after the effective date of the appropriation in this section.

Agency/Project	LRBP Fund	State Special Revenue	Federal Special Revenue	Authority Only	Total
Renovate Executive Residence, Capitol Complex					
		1,900,000			1,900,000

State special revenue funds consist of capitol land grant funds.

Section 9. Fund transfer. The state treasurer shall transfer the amount of \$2,500,000 in fiscal year 2020 from the state general fund to the long-range building program account in the capital projects fund type for the projects enumerated in [section 2].

Section 10. Legislative consent. The appropriations authorized in [sections 1 through 8] constitute legislative consent for the capital projects contained in [sections 1 through 8] within the meaning of 18-2-102.

Section 11. Approval of lease. The department of administration is authorized to enter into a lease or leases in 301 South Park Building, Helena, Montana, for an aggregate square footage in excess of 40,000 square feet. The term of the lease or leases may not extend beyond December 31, 2039. This approval constitutes legislative consent contained within the meaning of 2-17-101(5).

Section 12. Coordination instruction. If both [this act] and Senate Bill No. 338 are passed and approved, [section 2 of Senate Bill No. 338] must read as follows:

“NEW SECTION. Section 2. Authorization to construct Montana heritage center. (1) The department of administration is authorized to construct the Montana heritage center, which may include the remodel of the veterans’ and pioneer memorial building.

(2) The department of administration shall, to the fullest extent possible, analyze, negotiate, and pursue purchasing the area bounded by Prospect avenue, 11th avenue, North Sanders street, and North Oakes street in Helena, Montana, containing approximately 9.4 acre lots, as the location of the Montana Heritage Center.

(3) The department of administration may construct the Montana heritage center in phases.

(4) This section constitutes legislative consent for the construction of the Montana heritage center within the meaning of 18-2-102.”

Section 13. Coordination instruction. If House Bill No. 652 is not passed and approved, the appropriation to the department of administration for Life Safety and Deferred Maintenance, Statewide, in [section 2 of this act] is increased from \$1,550,000 to \$3,550,000.

Section 14. Coordination instruction. (1) If House Bill No. 553 is passed and approved and House Bill No. 652 is not passed and approved, or if House Bill No. 553 is passed and approved and House Bill No. 652 is passed and approved and does not contain at least \$25 million in state funding for Romney Hall, the state treasurer shall transfer \$25 million from the general fund, less any state funding provided in House Bill No. 652 for Romney Hall, to the capital developments long-range building program account established in [section 5 of House Bill No. 553].

(2) For the capital project for Romney Hall for the biennium beginning July 1, 2019, the amount transferred to the capital developments long-range building program account established in [section 5 of House Bill No. 553] pursuant to subsection (1) is appropriated to the department of administration and \$7 million is authorized from donations or university funds.

Section 15. Coordination instruction. If both [this act] and House Bill No. 652 are passed and approved, the appropriation in [section 8 of House Bill No. 652] is \$21.5 million.

Section 16. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 17. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 8] is effective January 1, 2021.

Approved May 10, 2019

CHAPTER NO. 423

[HB 6]

AN ACT IMPLEMENTING THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR GRANTS UNDER THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; PRIORITIZING PROJECT GRANTS AND AMOUNTS; ESTABLISHING CONDITIONS FOR GRANTS; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriations for renewable resource grants. (1) For the biennium beginning July 1, 2019, there is appropriated to the department of natural resources and conservation from the natural resources projects state special revenue account established in 15-38-302 up to:

(a) \$100,000 for emergency projects grants to be awarded by the department over the course of the biennium;

(b) \$800,000 for planning grants to be awarded by the department over the course of the biennium;

(c) \$300,000 for irrigation development grants to be awarded by the department over the course of the biennium;

(d) \$300,000 for watershed grants to be awarded by the department over the course of the biennium;

(e) \$75,000 for private grants to be awarded by the department over the course of the biennium; and

(f) \$500,000 for grants to the following four entities for the described purposes, amounts, and contingencies described in the renewable resource grant and loan program report to the 66th legislature entitled "Governor's Executive Budget Fiscal Years 2019-2021 Volume 6":

Applicant/Project	Amount
Broadwater Conservation District	
Big Springs Ditch Water Conservation, Phase 2	\$125,000
Malta Irrigation District	
(Exeter Siphon Replacement)	\$125,000
Sidney Water Sewer Irrigation District	
(Main Canal Pipeline Conversion)	\$125,000
Buffalo Rapids Irrigation District 2	
(Shirley Main Canal Rehabilitation)	\$125,000

(2) The amount of \$3,990,000 is appropriated to the department of natural resources and conservation from the natural resources projects state special revenue account established in 15-38-302 for grants to political subdivisions and local governments for the biennium beginning July 1, 2019. The funds referred to in this subsection must be awarded by the department to the named entities for the described purposes and in the grant amounts listed in subsection (4), subject to the conditions set forth in [sections 2 and 3] and the contingencies described in the renewable resource grant and loan program January 2019 report to the 66th legislature.

(3) Funds must be awarded up to the amounts approved in subsection (4) in the following listed order of priority until available funds are expended. Funds not accepted or used by higher-ranked projects must be provided for projects farther down the priority list that would not otherwise receive funding. If at any time a grant sponsor determines that a project will not begin before June 30, 2021, the sponsor shall notify the department of natural resources and conservation. After all eligible projects are funded, remaining funds may be used for any renewable resource project authorized under this section.

(4) The following are the prioritized grant projects:

RENEWABLE RESOURCE GRANT AND LOAN PROGRAM

Applicant/Project	Amount
Seeley Lake - Missoula County Sewer District	
(Wastewater Improvements, Phase 2)	\$125,000
Granite County	
(Flint Creek Dam Rehabilitation)	\$125,000
Whitefish, City of	
(Wastewater Treatment System Improvements)	\$125,000
Missoula, City of	
(Rattlesnake Creek Dam Removal)	\$125,000
Montana Department of Natural Resources and Conservation	
Water Resources Division	
(Douglas Canal Rehabilitation)	\$125,000

Flathead Conservation District (Trumbull Creek Restoration and Aquifer Protection)	\$125,000
Canyon Creek Irrigation District (Canyon Lake Dam Rehabilitation)	\$125,000
Harlowton, City of (Roundhouse Wetland Restoration)	\$125,000
Thompson Falls, City of (Wastewater System Improvements, Phase 1)	\$125,000
Montana Department of Natural Resources and Conservation Water Resources Division (Broadwater Missouri Canal System Master Plan)	\$125,000
Winnett, Town of (Wastewater System Retrofit)	\$125,000
Bitter Root Irrigation District (Como Dam Water Resource Enhancement)	\$125,000
Harlowton, City of (Wastewater Improvements)	\$125,000
Milk River Joint Board of Control (St. Mary Canal Drop 2 Replacement)	\$125,000
Whitehall, Town of (Water Treatment Plant Improvements)	\$125,000
Lewis and Clark Conservation District (Willow Creek Feeder Canal Rehabilitation)	\$125,000
Fort Belknap Indian Community (Three Mile Creek Pump Station Rehabilitation)	\$125,000
Roundup, City of (Water System Improvements)	\$125,000
Glasgow Irrigation District (V-63 Lateral Conversion)	\$125,000
Pondera County Conservation District (Swift Dam Rehabilitation)	\$125,000
Simms County Sewer District (Wastewater System Improvements, Phase 2)	\$125,000
Malta Irrigation District (Costin Lateral Pipeline Conversion)	\$125,000
Power-Teton County Water and Sewer District (Water System Improvements, Phase 1)	\$125,000
Scobey, City of (Water System Improvements, Phase 2)	\$125,000
Bigfork County Water and Sewer District (Wastewater System Improvements)	\$125,000
Buffalo Rapids Irrigation Project District 2 (Lateral 1.6 Pipeline Conversion)	\$125,000
Hill County (Beaver Creek Dam Spillway Improvements)	\$125,000
Sidney Water Users Irrigation, District 3 (Main Canal Pipeline Conversion, Phase 2)	\$125,000
Flathead Conservation District (Krause Creek Restoration)	\$125,000
Alfalfa Valley Irrigation District (East Flynn Canal Rehabilitation)	\$125,000
Lower Musselshell Conservation District (Delphia Melstone WUA Irrigation Efficiency and Pump Station Rehabilitation)	\$117,050

Columbia Falls, City of (Water System Improvements)	\$122,950
Buffalo Rapids Irrigation Project District 1 (Irrigation Project 1 - Lateral 1.7 Pipeline Conversion)	\$125,000
Hardin, City of (Wastewater Treatment Plant Improvements)	\$125,000
Dillon, City of (Water Transmission and Distribution Main Replacement)	\$125,000
Helena Valley Irrigation District (Lateral 14.8 Headgate Rehabilitation, Phase 2)	\$125,000
Polson, City of (Wastewater System Improvement, Phase 2)	\$125,000
Carbon County Conservation District (Golden Ditch Company Clark Fork Diversion Rehabilitation)	\$125,000
Savage Irrigation District (Infrastructure Rehabilitation)	\$125,000
Petroleum County Conservation District (Horse Creek Coulee Water Storage)	\$125,000
Wibaux, Town of (Wastewater Treatment System Improvements)	\$125,000
Alberton, Town of (Water System Improvements)	\$125,000
Geraldine, Town Of (Wastewater System Improvements)	\$125,000
Missoula, City of (Caras Park Outfall Storm Water Treatment Retrofit, Phase 2)	\$125,000
Black Eagle-Cascade County Water/Sewer District (Water & Sewer System Improvements)	\$125,000
East Helena, City of (Water System Improvements)	\$125,000
Plentywood, City of (Wastewater Collection Improvement, Phase 2)	\$125,000
Missoula County (Lewis & Clark Subdivision Wastewater Improvements)	\$125,000
Wilsall Water District (Water District Water System Improvements)	\$125,000
Lower Yellowstone Irrigation Project (Crane Wasteway & Pump Station Rehabilitation)	\$125,000
Missoula County Conservation District (Grass Valley French Ditch Clark Fork Diversion Rehabilitation)	\$125,000
Montana Bureau of Mines and Geology (Reducing Mobilization of Oil-Brine Salt to Streams)	\$125,000
Winifred, Town of (Water System Improvements)	\$125,000
Hysham, Town of (Wastewater System Rehabilitation, Phase 1)	\$125,000
Vaughn Cascade County Water/Sewer District (Water Improvements)	\$125,000

Stillwater Conservation District (Yanzick/Brey, Riddle Ditches Irrigation System Improvements, Phase 2)	\$125,000
Lockwood Water/Sewer District (Drinking Water System Improvements)	\$125,000
Circle, Town of (Water System Improvements)	\$125,000
Yellowstone County DES (Billings Bench Water Users Association Main Canal Rehabilitation, Phase 1)	\$125,000
Hysham Irrigation District (Re-Lift Canal Improvement)	\$125,000
Clyde Park, Town of (Water System Improvements)	\$125,000
Libby, City of (Water System Improvements)	\$125,000
Chinook, City of (Water System Improvements)	\$125,000
Cut Bank, City of (Water System Improvements)	\$125,000
North Havre County Water District (Water District Water System Improvements)	\$125,000
Plains, Town of (Wastewater System Protection)	\$125,000
Montana Bureau of Mines and Geology (Measuring Groundwater Recharge in Flood to Pivot Irrigation Conversions)	\$125,000
Cascade, Town of (Water System Improvements)	\$125,000
Fallon County (Baker Lake Restoration)	\$100,000
Pondera County Conservation District (Kingsbury Turnout Automation)	\$125,000
Tin Cup County Water/Sewer District (Water Conservation)	\$125,000
Clancy Water/Sewer District (Water Improvements)	\$125,000

Section 2. Coordination of fund sources for grants to political subdivisions and local governments. A project sponsor listed under [section 1(4)] may not receive funds from both the reclamation and development grants program and the renewable resource grant and loan program for the same project during the same biennium.

Section 3. Condition of grants. Disbursement of funds under [section 1] is subject to the following conditions that must be met by the project sponsor:

(1) A scope of work and budget for the project must be approved by the department of natural resources and conservation. Any changes in scope of work or budget subsequent to legislative approval may not change project goals and objectives. Changes in activities that would reduce the public or natural resource benefits as presented in department of natural resources and conservation reports and applicant testimony to the 66th legislature may result in a proportional reduction in the grant amount.

(2) The project sponsor shall show satisfactory completion of conditions described in the recommendation section of the project narrative of the program report to the legislature for the biennium ending June 30, 2021, or, in the

case of planning grants issued under [section 1(1)], completion of conditions specified at the time of written notification of approved grant authority.

(3) The project sponsor must have a fully executed grant agreement with the department.

(4) Any other specific requirements considered necessary by the department must be met to accomplish the purpose of the grant as evidenced from the application to the department or from the proposal as presented to the legislature.

Section 4. Appropriations established. There is appropriated to any entity of state government that receives a grant under [section 1] the amount of the grant upon award of the grant by the department of natural resources and conservation. Grants to entities from prior bienniums are reauthorized for completion of contract work.

Section 5. Approval of grants – completion of biennial appropriation. The legislature, pursuant to 85-1-605, approves the renewable resource programs grants listed in [section 1]. The authorization of these grants constitutes a biennial appropriation from the natural resources projects state special revenue account established in 15-38-302.

Section 6. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 7. Coordination instruction. (1) If [this act], House Bill 7, and an act that provides funding from a source other than natural resources projects state special revenue account established in 15-38-302 of at least \$400,000 for aquatic invasive species grants to be administered by the department of natural resources and conservation are passed and approved, then [section 1(1) of this act] is amended to include:

“(g) \$300,000 for any grant programs listed under [section 1(1)(b) through 1(1)(f)]”.

(2) If both [this act] and an act that provides additional funding for renewable resource grant and loan program grants from bond proceeds are passed and approved, the projects listed in [section 1(4) of this act] that do not receive funding from the appropriations in [section 1(2) of this act] may receive funding from the appropriation in the other act designated for renewable resource grant and loan program grants in the order of completion of the conditions of [section 3 of this act] and to the extent that there is appropriation authority available.

Section 8. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 9. Effective date. [This act] is effective July 1, 2019.

Approved May 10, 2019

CHAPTER NO. 424

[HB 7]

AN ACT IMPLEMENTING THE RECLAMATION AND DEVELOPMENT GRANTS PROGRAM; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR GRANTS UNDER THE RECLAMATION AND DEVELOPMENT GRANTS PROGRAM; PRIORITIZING PROJECT GRANTS AND AMOUNTS; ESTABLISHING CONDITIONS FOR GRANTS; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriations for reclamation and development grants. (1) There is appropriated to the department of natural resources and conservation from the natural resources projects state special revenue account established in 15-38-302 up to:

(a) \$800,000 for grants for planning reclamation and development projects to be awarded by the department over the course of the biennium;

(b) \$400,000 to implement measures to control aquatic invasive species in state waters; and

(c) \$944,778 for grants to the following two entities for the described purposes, amounts, and contingencies described in the reclamation and development grants program report to the 66th legislature entitled "Governor's Executive Budget Fiscal Years 2019-2021 Volume 5":

Applicant/Project	Amount
Lincoln Conservation District	
(Tobacco River Restoration Project)	\$451,193
Richland County Conservation District	
(Mitigating Impacts to the Fox Hill/Hell Creek Aquifer)	\$493,585

(2) The amount of \$2,722,000 is appropriated to the department of natural resources and conservation from the natural resources projects state special revenue account established in 15-38-302 for grants to political subdivisions and local governments during the biennium beginning July 1, 2019. The funds in this subsection must be awarded by the department to the named entities for the described purposes and in the grant amounts set out in subsection (4) subject to the conditions set forth in [sections 2 and 3] and the contingencies described in the reclamation and development grant program January 2019 report to the 66th legislature.

(3) Funds must be awarded up to the amounts approved in this section in the order of priority listed in subsection (4) until available funds are expended. Funds not accepted or used by higher-ranked projects must be provided for projects farther down the priority list that would not otherwise receive funding. After all eligible projects are funded, remaining funds may be used for any reclamation and development project authorized under this section.

(4) The following are the prioritized grant projects:

Applicant/Project	Amount
Musselshell County	
(Bair-Collins Mine (Meathouse Road) Reclamation and Musselshell River Restoration)	\$500,000
Missoula County Community and Planning Services	
(Ninemile Creek Mine Reclamation)	\$437,000
Harlowton, City of	
(Removal of Contaminated Soils and Free Product at the Harlowton Roundhouse in Harlowton, MT, Phase 3)	\$500,000
Granite Conservation District	
(Silver King Mine Reclamation)	\$285,000
Powell County	
(Milwaukee Roundhouse Area Remediation)	\$500,000
Deer Lodge, City of	
(Milwaukee Roundhouse CECLA Site Passenger Refueling Area VCRA Program Remediation)	\$297,000
Ryegate, Town of	
(Former Ryegate Conoco Groundwater Remediation)	\$50,000

Montana Department of Environmental Quality (Upper Blackfoot Mining Complex Wetland Contamination Removal)	\$500,000
Montana Department of Environmental Quality (Cottonwood #2 Acid Mine Drainage Diversion Project)	\$300,000
Montana Department of Environmental Quality (Basin Creek Mine - Phase 2 Site Stability Project)	\$300,000
(Upper Blackfoot Mining Complex Water Treatment Plant Bridge and Infrastructure Protection)	\$300,000

Section 2. Coordination of fund sources for grants to political subdivisions and local governments. A project sponsor listed under [section 1] may not receive funds from both the reclamation and development grants program and the renewable resource grant and loan program for the same project during the same biennium.

Section 3. Condition of grants. Disbursement of funds under [section 1] is subject to the following conditions that must be met by the project sponsor:

(1) A scope of work and budget for the project must be approved by the department of natural resources and conservation. Any changes in scope of work or budget subsequent to legislative approval may not change project goals and objectives. Changes in activities that would reduce the public or natural resource benefits as presented in department of natural resources and conservation reports and applicant testimony to the 66th legislature may result in a proportional reduction in the grant amount.

(2) The project sponsor shall show satisfactory completion of conditions described in the recommendation section of the project narrative of the program report to the legislature for the biennium ending June 30, 2021, or, in the case of planning grants issued under [section 1], completion of conditions specified at the time of written notification of approved grant authority.

(3) The project sponsor must have a fully executed grant agreement with the department.

(4) Any other specific requirements considered necessary by the department must be met to accomplish the purpose of the grant as evidenced from the application to the department or from the proposal as presented to the legislature.

Section 4. Other appropriations. There is appropriated to any entity of state government that receives a grant under [section 1] the amount of the grant upon award of the grant by the department of natural resources and conservation. Grants to entities from prior bienniums are reauthorized for completion of contract work.

Section 5. Approval of grants. The legislature, pursuant to 90-2-1111, approves the reclamation and development grants listed in [section 1]. The authorization of these grants constitutes a biennial appropriation from the natural resources projects state special revenue account established in 15-38-302.

Section 6. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 7. Coordination instruction. (1) If [this act], House Bill 6, and an act that provides funding of at least \$400,000 for aquatic invasive species grants administered by the department of natural resources and conservation from a source other than the natural resources projects state special revenue account established in 15-38-302 are passed and approved, then:

(a) [section 1(1)(b) of this act] is void; and

(b) [section 1(1)(a) of this act] must read: “\$900,000 for grants for planning reclamation and development projects to be awarded by the department over the course of the biennium”.

(2) If both [this act] and an act that provides additional funding for reclamation and development grants from bond proceeds are passed and approved, the projects listed in [section 1(4) of this act] that do not receive funding from the appropriations in [section 1(2) of this act] may receive funding from the appropriation in the other act designated for reclamation and development grants in the order of completion of the conditions of [section 3 of this act] and to the extent that there is appropriation authority available.

Section 8. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 9. Effective date. [This act] is effective July 1, 2019.

Approved May 10, 2019

CHAPTER NO. 425

[HB 10]

AN ACT GENERALLY REVISING LAWS RELATED TO INFORMATION TECHNOLOGY CAPITAL PROJECTS; APPROPRIATING MONEY FOR INFORMATION TECHNOLOGY CAPITAL PROJECTS FOR THE BIENNIUM ENDING JUNE 30, 2021; PROVIDING A DEFINITION OF “LONG-RANGE INFORMATION TECHNOLOGY CAPITAL PROJECT”; PROMOTING STATEWIDE NETWORKS EFFICIENCIES; PROVIDING FOR OTHER MATTERS RELATED TO THE APPROPRIATIONS; PROVIDING FOR A TRANSFER OF FUNDS FROM THE GENERAL FUND TO THE LONG-RANGE INFORMATION TECHNOLOGY PROGRAM ACCOUNT; PROVIDING FOR THE DEVELOPMENT AND ACQUISITION OF NEW INFORMATION TECHNOLOGY SYSTEMS FOR THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS, THE DEPARTMENT OF JUSTICE, THE DEPARTMENT OF LIVESTOCK, THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES, AND THE DEPARTMENT OF TRANSPORTATION; AMENDING SECTION 2-17-506, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-17-506, MCA, is amended to read:

“2-17-506. Definitions. In this part, unless the context requires otherwise, the following definitions apply:

(1) “Board” means the information technology board established in 2-15-1021.

(2) “Central computer center” means any stand-alone or shared computer and associated equipment, software, facilities, and services administered by the department for use by state agencies.

(3) “Chief information officer” means a person appointed by the director of the department to carry out the duties and responsibilities of the department relating to information technology.

(4) "Data" means any information stored on information technology resources.

(5) "Department" means the department of administration established in 2-15-1001.

(6) "Electronic access system" means a system capable of making data accessible by means of an information technology facility in a voice, video, or electronic data form, including but not limited to the internet.

(7) "Information technology" means hardware, software, and associated services and infrastructure used to store or transmit information in any form, including voice, video, and electronic data.

(8) *"Long-range information technology capital project" means a discrete long-range information technology system or application, including the replacement or upgrade to existing systems.*

~~(8)~~(9) "Private safety agency" has the same meaning as provided in 10-4-101.

~~(9)~~(10) "Public safety agency" has the same meaning as provided in 10-4-101.

~~(10)~~(11) "State agency" means any entity of the executive branch, including the university system.

~~(11)~~(12) "Statewide telecommunications network" means any telecommunications facilities, circuits, equipment, software, and associated contracted services administered by the department for the transmission of voice, video, or electronic data from one device to another."

Section 2. Definitions. For the purposes of [this act], the following definitions apply:

(1) "Chief information officer" has the meaning provided in 2-17-506.

(2) "Department" means the department of administration.

(3) "Information technology" has the meaning provided in 2-17-506.

(4) "Information technology capital project" means a group of interrelated information technology activities that are planned and executed in a structured sequence to create a unique product or service.

(5) "LRITP" means the long-range information technology program account in the capital projects fund type.

Section 3. Appropriations and authorizations. (1) All business application systems funded under this section must have a plan approved by the chief information officer for the design, definition, creation, storage, and security of the data associated with the application system. The security aspects of the plan must address but are not limited to authentication and granting of system privileges, safeguards against unauthorized access to or disclosure of sensitive information, and, consistent with state records retention policies, plans for the removal of sensitive data from the system when it is no longer needed. It is the intent of this subsection that specific consideration be given to the potential sharing of data with other state agencies in the design, definition, creation, storage, and security of the data.

(2) Funds may not be released for a project until the chief information officer and the budget director approve the plans described in subsection (1).

(3) The following money is appropriated to the department to be used only for the indicated information technology capital projects:

Agency/Project	LRITP	State Special Revenue	Federal Special Revenue	Proprietary	Total
FISH, WILDLIFE, AND PARKS					
Automated Licensing System Replacement		2,500,000	7,500,000		10,000,000

DEPARTMENT OF JUSTICE

Mainframe Transition

4,034,822

4,034,822

DEPARTMENT OF LIVESTOCK

Interface Systems Upgrade

1,300,000

1,300,000

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Water Rights Information System (WRIS)

2,395,197 1,000,000

3,395,197

Trust Land Management System II (TLMSII)

2,000,000

2,000,000

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

Montana Family Safety Information System (MFSIS)

2,722,619 2,722,619

5,445,238

Mainframe Transition - CAPS and SEARCHES

2,195,550 557,709 2,666,769

5,420,028

DEPARTMENT OF TRANSPORTATION

Federal Billing System

7,000,000

7,000,000

(4) The department of fish, wildlife, and parks may adjust appropriations between state special revenue and federal special revenue funds if the total state special revenue authority is not increased by more than 10% of the total appropriation authorized for the automated licensing system replacement project.

Section 4. Fund transfers. The state treasurer shall transfer \$7,313,366 from the general fund to the LRITP by June 30, 2021.

Section 5. Statewide networks efficiencies. (1) The department is directed to leverage federal funds and other resources to the maximum extent possible to assist with infrastructure obligations associated with federal and other programs.

(2) State agencies are authorized to utilize existing appropriation authority to support or enhance enterprise electronic content management services.

Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 7. Effective date. [This act] is effective on passage and approval.

Approved May 10, 2019

CHAPTER NO. 426

[HB 11]

AN ACT APPROPRIATING MONEY FROM THE TREASURE STATE ENDOWMENT REGIONAL WATER SYSTEM STATE SPECIAL REVENUE ACCOUNT TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR FINANCIAL ASSISTANCE TO REGIONAL WATER AUTHORITIES FOR REGIONAL WATER SYSTEM PROJECTS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR EMERGENCY GRANTS FOR FINANCIAL ASSISTANCE TO LOCAL GOVERNMENT INFRASTRUCTURE PROJECTS THROUGH THE TREASURE STATE ENDOWMENT PROGRAM; AUTHORIZING GRANTS FROM THE TREASURE STATE ENDOWMENT STATE SPECIAL

REVENUE ACCOUNT; PLACING CONDITIONS ON GRANTS AND FUNDS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR INFRASTRUCTURE PROJECTS; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR INFRASTRUCTURE PLANNING GRANTS; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Appropriation for 2019 biennium unfunded authorized treasure state endowment program continuation grants. (1) There is appropriated to the department of commerce \$7,471,390 for the biennium beginning July 1, 2019, from the treasure state endowment special revenue account established in 17-5-703(3)(a) to finance treasure state endowment program grants authorized by subsection (2).

(2) The following applicants and projects are authorized for grants:

Infrastructure Applicant (project type)	Grant Amount
1. Stanford, Town of (water)	\$211,362
2. Hot Springs, Town of (water)	\$478,632
3. Sheridan, Town of (water)	\$625,000
4. Simms County Sewer District (wastewater)	\$750,000
5. Circle, Town of (water)	\$625,000
6. Lockwood Water & Sewer District (water)	\$625,000
7. Harlowton, City of (water)	\$750,000
8. Cascade, Town of (wastewater)	\$500,000
9. Shelby, City of (water)	\$750,000
10. Dutton, Town of (water)	\$500,000
11. Butte-Silver Bow (wastewater)	\$349,286
12. Lewis and Clark County (bridge)	\$309,985
13. Judith Basin County (bridge)	\$247,125
14. Powell County (bridge)	\$750,000

(3) Funding for projects listed in subsection (2) will be provided up to the amount of the appropriation in subsection (1) as projects meet the conditions provided in [section 4(1)].

(4) If sufficient funds are available, this section constitutes a valid obligation of funds in the treasure state endowment special revenue account established in 17-5-703(3)(a) to the grant recipients listed in subsection (2) for the purpose of encumbering the funds for the biennium beginning July 1, 2019, pursuant to 17-7-302. However, a grant recipient's entitlement to receive funds is dependent on the grant recipient's compliance with conditions described in [section 4(1)] and on the availability of funds. Any projects listed in subsection (2) that have not completed the conditions described in [section 4(1)] by September 30, 2020, must be reviewed by the next regular session of the legislature to determine if the authorized grant should be withdrawn.

(5) The funds appropriated in this section must be used by the department of commerce to make grants to the local governments listed in subsection (2) for the described purposes and in amounts not to exceed the amounts set out in subsection (2). The grants authorized in this section are subject to the conditions set forth in [section 4(1)] and described in the treasure state endowment program 2021 biennium report to the 66th legislature. The department of commerce must commit funds to projects listed in subsection (2), up to the amounts authorized, based on the manner of and subject to the limitations on disbursement set forth in [section 4]. If the funds in the treasure state endowment special revenue account established in 17-5-703(3)(a) are insufficient to fund all projects authorized [in this act], the projects in [section 1(2)] must be funded before any projects listed in [sections 2(2) and 2(5)].

(6) The department of commerce will disburse grant funds on a reimbursement basis as grant recipients incur eligible project expenses. Eligible project expenses include eligible project expenses incurred beginning on May 8, 2017.

(7) Grant recipients listed under subsection (2) may use local dollars or other non-treasure state endowment program funds expended during the biennium beginning July 1, 2017, as matching funds for their project authorized in subsection (2) in addition to currently acceptable forms of match.

(8) Grant recipients must complete all of the conditions described in [section 4(1)] by September 30, 2022, or any obligation to the grant recipient is void.

Section 2. Appropriation for treasure state endowment program grants. (1) There is appropriated to the department of commerce \$8,112,847 for the biennium beginning July 1, 2019, from the treasure state endowment special revenue account established in 17-5-703(3)(a) to finance treasure state endowment program grants authorized by subsection (2).

(2) The following applicants and projects are authorized for grants and listed in the order of their priority:

Infrastructure Applicant (project type)	Grant Amount
1. Libby, City of (water)	\$750,000
2. Clancy Water & Sewer District (water)	\$750,000
3. Wibaux, Town of (wastewater)	\$750,000
4. Lockwood Water & Sewer District (water)	\$500,000
5. Geraldine, Town of (wastewater)	\$500,000
6. Dodson, Town of (wastewater)	\$362,150
7. Hysham, Town of (wastewater)	\$375,000
8. Wilsall Water District (water)	\$500,000
9. Whitehall, Town of (water)	\$625,000
10. Power-Teton County Water & Sewer District (water)	\$625,000
11. Plains, Town of (wastewater)	\$500,000
12. Broadview, Town of (water)	\$500,000
13. Thompson Falls, City of (wastewater)	\$750,000
14. Coram County Water & Sewer District (water)	\$500,000
15. Chinook, City of (water)	\$500,000
16. Cut Bank, City of (water)	\$750,000
17. Roundup, City of (water)	\$750,000

(3) Funding for the projects numbered 1 through 13 in subsection (2) will be provided only as long as there are sufficient funds available from the amount that was deposited into the treasure state endowment special revenue account during the biennium beginning July 1, 2019. Funding for the projects will be made available in the order that the grant recipients satisfy the conditions described in [section 4(1)], and the obligations to any remaining projects will cease. Projects numbered 14 through 17 listed in subsection (2) that have satisfied the conditions described in [section 4(1)] may receive grant funds only if one or more of the projects numbered 1 through 13 terminate their right to the awarded funds in writing prior to the end of the biennium beginning July 1, 2019.

(4) There is appropriated to the department of commerce \$2,005,763 for the biennium beginning July 1, 2019, from the treasure state endowment special revenue account established in 17-5-703(3)(a) to finance treasure state endowment program grants authorized by subsection (5) as projects meet the conditions provided in [section 4(1)].

(5) The following applicants and projects are authorized for grants and listed in the order of their priority:

Bridge Applicant	Grant Amount
1. Musselshell County	\$589,138
2. Lewis & Clark County	\$558,806
3. Beaverhead County	\$500,000
4. Custer County	\$357,819

(6) If sufficient funds are available, this section constitutes a valid obligation of funds to the grant recipients listed in subsections (2) and (5) for purposes of encumbering the funds in the treasure state endowment special revenue account established in 17-5-703(3)(a) for the biennium beginning July 1, 2019, pursuant to 17-7-302. However, a grant recipient's entitlement to receive funds is dependent on the grant recipient's compliance with the conditions described in [section 4(1)] and on the availability of funds.

(7) Funding for projects in subsections (2) and (5) will be provided only as long as there are sufficient funds available in the treasure state endowment special revenue account established in 17-5-703(3)(a) during the biennium beginning July 1, 2019. Funding for these projects will be made available in the order that the grant recipients satisfy the conditions described in [section 4(1)]. However, any of the projects listed in subsections (2) and (5) that have not completed the conditions described in [section 4(1)] by September 30, 2020, must be reviewed by the next regular session of the legislature to determine if the authorized grant should be withdrawn.

(8) The funds appropriated in this section must be used by the department to make grants to the governmental entities listed in subsections (2) and (5) for the described purposes and in amounts not to exceed the amounts set out in subsections (2) and (5). The grants authorized in this section are subject to the conditions set forth in [section 4(1)] and described in the treasure state endowment program 2021 biennium report to the 66th legislature. The legislature, pursuant to 90-6-710, authorizes the grants for the projects listed in subsections (2) and (5). The department shall commit funds to projects listed in subsections (2) and (5), up to the amounts authorized, based on the manner of disbursement set forth in [section 4] until the funds deposited into the treasure state endowment special revenue account established in 17-5-703(3)(a) during the biennium beginning July 1, 2019, are expended.

(9) Grant recipients shall complete all of the conditions described in [section 4(1)] by September 30, 2022, or any obligation to the grant recipient will cease.

Section 3. Approval of grants – completion of biennial appropriation. (1) The legislature, pursuant to 90-6-701, authorizes grants for the projects identified in [section 1(2)], the projects identified in [sections 2(2) and 2(5)], the emergency infrastructure grants in [section 6], and the infrastructure planning grants in [section 7].

(2) The authorization of these grants completes a biennial appropriation from the treasure state endowment special revenue account established in 17-5-703(3)(a).

(3) Grants to entities from prior bienniums are reauthorized for completion of contract work.

Section 4. Condition of grants – disbursements of funds. (1) The disbursement of grant funds for the projects specified in [sections 1(2), 2(2), and 2(5)] is subject to completion of the following conditions:

(a) The grant recipient shall document that other matching funds required for completion of the project are firmly committed.

(b) The grant recipient must have a project management plan that is approved by the department of commerce.

(c) The grant recipient must be in compliance with the auditing and reporting requirements provided for in 2-7-503 and have established a financial

accounting system that the department can reasonably ensure conforms to generally accepted accounting principles. Tribal governments shall comply with auditing and reporting requirements provided for in 2 CFR 200.

(d) The grant recipient shall satisfactorily comply with any conditions described in the application (project) summaries section of the treasure state endowment program 2021 biennium report to the 66th legislature.

(e) The grant recipient shall satisfy other specific requirements considered necessary by the department of commerce to accomplish the purpose of the project as evidenced by the application to the department.

(f) The grant recipient shall execute a grant agreement with the department of commerce.

(2) With the exception of bridges, all projects must adhere to the design standards required by the department of environmental quality. Recipients of treasure state endowment program funds that are not subject to the department of environmental quality design standards must adhere to generally accepted industry standards, such as Recommended Standards for Wastewater Facilities or Recommended Standards for Water Works, published by the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, latest edition.

(3) Recipients of treasure state endowment program funds are subject to the requirements of the department of commerce as described in the most recent edition of the Treasure State Endowment Program Project Administration Manual adopted by the department through the administrative rulemaking process.

Section 5. Other powers and duties of department. (1) The department of commerce shall disburse grant funds on a reimbursement basis as grant recipients incur eligible project expenses.

(2) If actual project expenses are lower than the projected expense of the project, the department may, at its discretion:

(a) reduce the amount of grant funds to be provided to grant recipients in proportion to all other project funding sources;

(b) authorize the amount of grant funds to be provided so that the grant recipient's projected average residential user rates do not become lower than their target rate as determined by the department; or

(c) reduce the amount of grant funds to be provided so that the grant recipient's projected average residential user rates do not become lower than their target rate as determined by the department.

(3) If the grant recipient obtains a greater amount of grant funds than was contained in the treasure state endowment program application, the department may reduce the amount of the treasure state endowment program grant funds to be provided to ensure that the grant recipient continues to meet the threshold requirements contained in program guidelines for receiving the larger treasure state endowment program grant.

Section 6. Appropriation from treasure state endowment special revenue account for emergency grants. There is appropriated to the department of commerce \$100,000 for the biennium beginning July 1, 2019, from the treasure state endowment special revenue account for the purpose of providing local governments, as defined in 90-6-701, with emergency grants for infrastructure projects, as defined in 90-6-701.

Section 7. Appropriation from treasure state endowment special revenue account for infrastructure planning grants. There is appropriated to the department of commerce \$900,000 for the biennium beginning July 1, 2019, from the treasure state endowment special revenue account for the purpose of providing local governments, as defined in 90-6-701,

with infrastructure planning grants for infrastructure projects, as defined in 90-6-701.

Section 8. Appropriation from treasure state endowment regional water system special revenue account. (1) There is appropriated \$5,000,000 to the department of natural resources and conservation for the biennium beginning July 1, 2019, from the treasure state endowment regional water system special revenue account to finance the state's share of regional water system projects authorized in subsection (2) and as set forth in 90-6-715.

(2) The state's four regional water authorities are authorized to receive the funds appropriated in subsection (1) as long as there are sufficient funds available from the amount that was deposited into the treasure state endowment regional water system special revenue account during the biennium beginning July 1, 2019.

(3) A regional water authority's receipt of funds is dependent on the authority's compliance with the conditions described in [section 10(1)].

(4) This section constitutes a valid obligation of funds to the regional water authorities identified in subsection (2) for purposes of encumbering the treasure state endowment regional water system special revenue account funds received during the biennium beginning July 1, 2019, under 17-7-302.

Section 9. Approval of funds – completion of appropriation. (1) The legislature, pursuant to 90-6-715, authorizes funds for the regional water authorities identified in [section 8(2)].

(2) The authorization of these funds completes an appropriation from the treasure state endowment regional water system special revenue account provided for in 17-5-703(3)(b).

Section 10. Conditions – manner of disbursement of funds. (1) The disbursement of funds under [sections 8 and 9] is subject to completion of the following conditions:

(a) The regional water authority shall execute an agreement with the department of natural resources and conservation.

(b) The regional water authority must have a project management plan that is approved by the department.

(c) The regional water authority shall establish a financial accounting system that the department can reasonably ensure conforms to generally accepted accounting principles.

(d) The regional water authority shall provide the department with a detailed preliminary engineering report.

(2) The department shall disburse funds on a reimbursement basis as the regional water authority incurs eligible project expenses.

Section 11. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 12. Coordination instruction. If both [this act] and an act that provides additional funding for treasure state endowment program grants from bond proceeds are passed and approved, the projects listed in [section 2(2) of this act] that do not receive funding from the appropriations in [section 2(2) of this act] may receive funding from the appropriation in the other act designated for treasure state endowment program grants in the order of completion of the conditions of [section 4 of this act] and to the extent that there is appropriation authority available.

Section 13. Effective date. [This act] is effective July 1, 2019.

Approved May 10, 2019

CHAPTER NO. 427

[HB 15]

AN ACT REVISING COUNTY MOTOR VEHICLE RECYCLING AND DISPOSAL LAWS; ALLOWING A COUNTY TO DISPOSE OF NONMOTORIZED VEHICLES AND MOBILE HOMES THAT ARE PUBLIC NUISANCES OR CAUSE CONDITIONS OF DECAY; PROVIDING DEFINITIONS; AMENDING SECTIONS 61-12-402, 75-10-501, AND 75-10-521, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-12-402, MCA, is amended to read:

“61-12-402. Notice to owner. (1) Within 72 hours after a vehicle is removed and held by or at the direction of the Montana highway patrol, the highway patrol shall notify the sheriff of the county or the chief of police of the city in which the vehicle is being stored of where and when the vehicle was taken into custody and of where the vehicle is being stored. In addition, the Montana highway patrol shall furnish the sheriff or the chief of police:

(a) a complete description of the vehicle, including year, make, model, serial number, and license number if available;

(b) any costs incurred to that date in the removal, storage, and custody of the vehicle; and

(c) any available information concerning the vehicle's ownership.

(2) The highway patrol shall notify the sheriff of the county or the chief of police of the city in which the vehicle was taken into custody of the location at which the vehicle is being stored if the vehicle was removed to a different county.

(3) The sheriff or the city police in the jurisdiction where the vehicle is being stored shall make reasonable efforts to ascertain the name and address of the owner, lienholder, or person entitled to possession of the vehicle taken into custody under 61-12-401. If a name and address are ascertained, the sheriff or the city police shall notify the owner, lienholder, or person of the location of the vehicle.

(4) If the vehicle is registered in the office of the department, notice is considered to have been given when a certified letter addressed to the registered owner of the vehicle and lienholder, if any, at the latest address shown by the records in the office of the department, return receipt requested and postage prepaid, is mailed at least 30 days before the vehicle is sold.

(5) If the identity of the last-registered owner cannot be determined, if the registration does not contain an address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the county where the motor vehicle is being stored is sufficient to meet all requirements of notice pursuant to this part. The notice by publication may contain multiple listings of abandoned vehicles. The notice must be provided in the same manner as prescribed in 25-13-701(1)(b).

(6) If the abandoned vehicle is in the possession of a motor vehicle wrecking facility licensed under 75-10-511, the wrecking facility may make the required search to ascertain the name and address of the owner, lienholder, or person entitled to possession of the vehicle and shall give the notices required in subsections (3) through (5). The wrecking facility shall deliver to the sheriff or the city police a certificate describing the efforts made to ascertain the name and address of the owner, lienholder, or person entitled to possession of the

vehicle and shall deliver to the sheriff or the city police proof of the notice given.

(7) (a) (i) A vehicle found by law enforcement officials to be a junk vehicle, as defined by in 75-10-501, and that has a value of \$500 or less may be directly submitted for disposal in accordance with the provisions of Title 75, chapter 10, part 5, upon a release given by the sheriff or the city police. The county representative designated to implement the county motor vehicle recycling and disposal program pursuant to 75-10-521 for the county where the vehicle is being stored shall determine the value of the vehicle. In the release, the sheriff or the city police shall include a description of the vehicle, including year, make, model, serial number, and license number if available. If the vehicle is being stored by a motor vehicle wrecking facility, the sheriff or the city police shall transmit the release to the motor vehicle wrecking facility and the facility shall consider the release to meet the requirements for records under 61-3-225 and 75-10-512. If the vehicle is being stored by a qualified tow truck operator, as defined in 61-8-903, the sheriff or the city police shall transmit the release to the operator. Vehicles described in this section may be submitted for disposal without notice and without a required holding period.

(ii) *A junk nonmotorized vehicle, as defined in 75-10-501, may be submitted for disposal as provided in this subsection (7)(a) pursuant to the same provisions as a junk vehicle if the county has agreed to accept junk nonmotorized vehicles for disposal pursuant to 75-10-521(10).*

(b) A licensed vehicle that otherwise meets the definition of a junk vehicle, as defined in 75-10-501, and that has a value of \$500 or less may be directly submitted for disposal as provided in subsection (7)(a)."

Section 2. Section 75-10-501, MCA, is amended to read:

"75-10-501. Definitions. Unless the context requires otherwise, in this part, the following definitions apply:

(1) "Board" means the board of environmental review provided for in 2-15-3502.

(2) "Component part" means any identifiable part of a discarded, ruined, wrecked, or dismantled motor vehicle, including but not limited to fenders, doors, hoods, engine blocks, motor parts, transmissions, frames, axles, wheels, tires, and passenger compartment fixtures.

(3) "Department" means the department of environmental quality provided for in 2-15-3501.

(4) *"Junk mobile home" means a mobile home as defined in 15-24-201 that is wrecked, ruined, dismantled, or abandoned and is no longer fit for human habitation.*

(5) *"Junk nonmotorized vehicle" means an inoperative vehicle that is not constructed with a motor and that is discarded, ruined, wrecked, or dismantled.*

~~(4)~~(6) (a) "Junk vehicle" means a motor vehicle, including component parts:

(i) that is discarded, ruined, wrecked, or dismantled;

(ii) that, except as provided in subsection ~~(4)~~(b) (6)(b), is not lawfully and validly licensed; and

(iii) that remains inoperative or incapable of being driven.

(b) If a vehicle is permanently registered under 61-3-562 and meets the criteria for a junk vehicle under subsection ~~(4)~~(a) (6)(a), the vehicle is a junk vehicle.

~~(5)~~(7) "Motor vehicle graveyard" means a collection point established by a county for junk motor vehicles prior to their disposal.

~~(6)~~(8) (a) "Motor vehicle wrecking facility" means:

(i) a facility buying, selling, or dealing in four or more vehicles a year, of a type required to be licensed, for the purpose of wrecking, dismantling, disassembling, or substantially changing the form of the motor vehicle; or

(ii) a facility that buys or sells component parts, in whole or in part, and deals in secondhand motor vehicle parts. A facility that buys or sells component parts of a motor vehicle, in whole or in part, is a motor vehicle wrecking facility whether or not the buying or selling price is based upon weight or any other type of classification.

(b) The term does not include a garage where wrecked or disabled motor vehicles are temporarily stored for a reasonable period of time for inspection, repairs, or subsequent removal to a junkyard.

(7)(9) "Person" means any individual, firm, partnership, company, association, corporation, city, town, local governmental entity, or other governmental or private entity, whether organized for profit or not.

(8)(10) "Public view" means any point 6 feet above the surface of the center of a public road from which junk vehicles can be seen.

(9)(11) "Shielding" means the construction or use of fencing or constructed or natural barriers to conceal junk vehicles from public view."

Section 3. Section 75-10-521, MCA, is amended to read:

"75-10-521. Powers and duties of county motor vehicle recycling and disposal programs. (1) (a) Each county shall acquire, develop, and maintain property for free motor vehicle graveyards. The property may be acquired by purchase, lease, or otherwise.

(b) As an alternative, the county may contract for the maintenance and operation of a motor vehicle graveyard or graveyards, but any such contract may be entered into only with a motor vehicle wrecking facility licensed under the provisions of this part.

(2) Two or more counties may join to form a district for the purpose stated in this section. If a district is formed, all provisions of this part pertaining to a county also apply to a district formed under this subsection.

(3) When there is an accumulation of at least 200 junk vehicles in the graveyard, the county shall notify the department for disposal purposes.

(4) The county commissioners of each county shall designate a representative to be responsible for implementing this part.

(5) Each county, through its designated representative, shall inspect each licensed motor vehicle wrecking facility within its boundaries, consistent with rules adopted by the department.

(6) Each county may sell junk vehicles from the motor vehicle graveyard to licensed motor vehicle wrecking facilities. The sales may be conducted only pursuant to a plan that has been approved by the department for consistency with its rules.

(7) A county shall submit to the department for approval a plan for the collection of junk vehicles and the establishment and operation of the motor vehicle graveyard.

(8) (a) The county shall submit to the department for approval a proposed budget for the succeeding fiscal year.

(b) The budget must be for the amounts required by the county for collection costs, acquisition, maintenance, and operation of the graveyard, for funding of a motor vehicle recycling and disposal capital improvement fund established pursuant to subsection (9), if applicable, and for other duties relating to implementation of this part.

(c) Except as provided in subsection ~~(8)(e)~~ (8)(f), up to 10% of the budget may be designated to a motor vehicle recycling and disposal capital improvement fund established pursuant to subsection (9).

(d) If a county agrees to accept junk nonmotorized vehicles or junk mobile homes for recycling and disposal as provided in subsection (10), no more than 20% of the budget may be used to dispose of junk nonmotorized vehicles and junk mobile homes.

~~(d)~~*(e)* Except as provided in subsection ~~(8)~~*(e)* ~~(8)~~*(f)*, at the end of a fiscal year, unspent money may be transferred to a motor vehicle recycling and disposal capital improvement fund established pursuant to subsection (9).

~~(e)~~*(f)* No allocations pursuant to this section may be made to a county's motor vehicle recycling and disposal capital improvement fund if the fund balance exceeds \$200,000. The fund may continue to earn interest and income from investments.

~~(f)~~*(g)* Any proposed change in the budget or plan must be approved by the department.

(9) (a) A county may establish a motor vehicle recycling and disposal capital improvement fund in accordance with the provisions of 7-6-616.

(b) Money in a motor vehicle recycling and disposal capital improvement fund may be spent only for the replacement and acquisition of property, capital improvements, and equipment necessary to maintain and improve the county's motor vehicle recycling and disposal program.

(10) (a) *A county may accept for recycling and disposal junk nonmotorized vehicles and junk mobile homes that cause:*

(i) a public nuisance as provided in 45-8-111; or

(ii) conditions of community decay as provided in 7-5-2110.

(b) If a county agrees to accept junk nonmotorized vehicles or junk mobile homes pursuant to subsection (10)(a):

(i) prior to recycling and disposal of a junk nonmotorized vehicle, the junk nonmotorized vehicle must be released to the county by the owner or by law enforcement officials in accordance with 61-12-402(7)(a); and

(ii) prior to recycling and disposal of a junk mobile home:

(A) if the junk mobile home is on private property, the junk mobile home may be released to the county only by written consent of the owner. The county may dispose of a junk mobile home on private property only if the county has also received the permission of the property owner where the junk mobile home is located.

(B) if a junk mobile home is abandoned on public property for more than 2 weeks, the county may dispose of the junk mobile home after first sending a certified letter to the last-known owner of the junk mobile home or, if no owner information is available, after notice has been placed in a paper of general circulation. If the junk mobile home remains on the public property after 2 weeks from when the notice is sent or published, the county may dispose of the junk mobile home. If an owner can be identified for the junk mobile home, the county may require that the owner reimburse the cost of transport and disposal of the junk mobile home."

Section 4. Effective date. [This act] is effective July 1, 2019.

Section 5. Termination. [This act] terminates June 30, 2021.

Approved May 10, 2019

CHAPTER NO. 428

[HB 39]

AN ACT REVISING LAWS RELATED TO THE TAXATION OF FUEL USED FOR PUBLIC CONTRACTS; CLARIFYING THAT FUEL USED FOR PUBLIC CONTRACTS MUST BE FUEL ON WHICH THE FUEL TAX HAS BEEN

PAID; PROVIDING PENALTIES FOR USING UNTAXED FUEL FOR PUBLIC CONTRACTS; AMENDING SECTIONS 15-70-403 AND 15-70-441, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-70-403, MCA, is amended to read:

“15-70-403. Gasoline and special fuel tax – incidence – rates.

(1) The incidence of the fuel tax is on the distributor for the privilege of engaging in and carrying on business in this state. Each distributor shall pay to the department of transportation a tax in an amount equal to:

(a) for each gallon of gasoline distributed by the distributor within the state and upon which the gasoline tax has not been paid by any other distributor:

- (i) 31.5 cents in fiscal years 2018 and 2019;
- (ii) 32 cents in fiscal years 2020 and 2021;
- (iii) 32.5 cents in fiscal year 2022; and
- (iv) 33 cents in fiscal year 2023 and thereafter;

(b) for each gallon of special fuel distributed by the distributor within the state and on which the special fuel tax has not been paid by any other distributor:

- (i) 29.25 cents in fiscal years 2018 and 2019;
- (ii) 29.45 cents in fiscal years 2020 and 2021;
- (iii) 29.55 cents in fiscal year 2022; and
- (iv) 29.75 cents in fiscal year 2023 and thereafter; and

(c) 4 cents for each gallon of aviation fuel, other than fuel sold to the federal defense fuel supply center, which is allocated to the department as provided by 67-1-301.

(2) The gasoline tax provided for in subsection (1)(a) must be deposited as follows:

(a) the revenue from 23 cents of the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the highway restricted account provided for in 15-70-126;

(b) the revenue from 4 cents of the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the highway patrol administration state special revenue account established in 44-1-110; and

(c) the remaining revenue from the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the bridge and road safety and accountability restricted account provided for in 15-70-127.

(3) The special fuel tax provided for in subsection (1)(b) must be deposited as follows:

(a) the revenue from 23 3/4 cents of the tax to the highway restricted account provided for in 15-70-126;

(b) the revenue from 4 cents of the tax to the highway patrol administration state special revenue account established in 44-1-110; and

(c) the remaining revenue from the tax to the bridge and road safety and accountability restricted account provided for in 15-70-127.

(4) Gasoline or special fuel may not be included in the measure of the distributor's tax if it is sold for export unless the distributor is not licensed and is not paying the tax to the state where the fuel is destined.

(5) Special fuel may not be included in the measure of the distributor's tax if it is dyed by injector at a refinery or terminal for off-highway use.

(6) When no Montana fuel tax has been paid by a distributor or any other person, the department shall collect or cause to be collected from the owners or operators of motor vehicles operating on the public roads and highways of this state a tax equal to the tax rate provided for in subsection (1)(a) for gasoline

and subsection (1)(b) for dyed or undyed special fuel. The tax must be paid for each gallon of gasoline or special fuel as defined in this part, or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity test sold or used to produce motor power to operate motor vehicles on the public roads and highways of this state.

(7) The tax may not be imposed on dyed special fuel delivered into the fuel supply tank of a vehicle that is equipped with a feed delivery box if:

(a) the feed delivery box is permanently affixed to the vehicle;

(b) the vehicle is used exclusively for the feeding of livestock; and

(c) the gross vehicle weight of the vehicle, exclusive of any towed units, is greater than 12,000 pounds.

(8) All special fuel or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity test sold or used in motor vehicles, motorized equipment, and the internal combustion of any engines, including stationary engines, and used in connection with any work performed under any contracts pertaining to the construction, reconstruction, or improvement of a highway or street and its appurtenances awarded by any public agencies, including federal, state, county, municipal, or other political subdivisions, must be ~~undyed~~ fuel on which Montana fuel tax has been paid.

(9) Material used for construction, reconstruction, or improvement in connection with work performed under a contract as provided in subsection (8) must be produced using fuel on which Montana fuel tax has been paid."

Section 2. Section 15-70-441, MCA, is amended to read:

"15-70-441. Dyed special fuel restrictions – penalties. (1) (a) A person may not use *untaxed* dyed special fuel *in violation of 15-70-403(8) or (9) or* to operate a motor vehicle on the public roads and highways of this state unless:

(i) the motor vehicle has a gross vehicle weight of greater than 12,000 pounds, exclusive of any towed units, is equipped with a feed delivery box that is permanently affixed to the vehicle, and is used solely for the feeding of livestock; or

(ii) the use is permitted pursuant to rules adopted under subsection ~~(2)(c)~~ (1)(c).

(b) (i) The purposeful or knowing use of *untaxed* dyed special fuel in a motor vehicle operating on the public roads and highways of this state in violation of *15-70-403(8) or (9) or* this subsection (1) is subject to the civil penalty imposed under subsection (1)(b)(ii). Each use is a separate offense. The civil penalty may be in addition to criminal penalties imposed under 15-70-443.

(ii) The department shall, after giving notice and holding a hearing, if requested, impose a civil penalty not to exceed \$1,000 for the first offense and \$5,000 for the second offense for using dyed special fuel in violation of the provisions of this section. A subsequent offense is subject to criminal penalties imposed under 15-70-443.

(c) The department shall adopt and enforce reasonable rules for the movement of off-highway vehicles traveling from one location to another on the public roads and highways of this state when using dyed special fuel or nontaxed fuel.

(2) The operator of the vehicle is liable for the tax imposed in 15-70-403. If the operator refuses or fails to pay the tax, in whole or in part, the seller of the dyed special fuel is jointly and severally liable for the tax imposed under 15-70-403 and for the penalties described in this section if the seller knows or has reason to know that the fuel will be used for a taxable purpose."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved May 10, 2019

CHAPTER NO. 429

[HB 181]

AN ACT REVISING CAMPAIGN FINANCE REPORTS AND FILINGS LAWS; REVISING DEADLINES FOR CAMPAIGN FINANCE REPORTS; REQUIRING THE COMMISSIONER OF POLITICAL PRACTICES TO POST CERTAIN INFORMATION ON THE COMMISSIONER'S WEBSITE; REQUIRING ELECTRONIC CAMPAIGN FINANCE REPORTS; PROVIDING EXCEPTIONS; AND AMENDING SECTIONS 13-37-208, 13-37-215, 13-37-225, 13-37-226, AND 13-37-228, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 13-37-208, MCA, is amended to read:

"13-37-208. Treasurer to keep records. (1) (a) Except as provided in subsection (1)(b), the campaign treasurer of each candidate and each political committee shall keep detailed accounts of all contributions received and all expenditures made by or on behalf of the candidate or political committee that are required to be set forth in a report filed under this chapter. The accounts must be current within not more than 10 days after the date of receiving a contribution or making an expenditure.

(b) The accounts described in subsection (1)(a) must be current as of the 5th day before the date of filing of a report as specified in ~~13-37-226~~ 13-37-228.

(2) Accounts of a deputy campaign treasurer must be transferred to the treasurer of a candidate or political committee before the candidate or political committee finally closes its books or when the position of a deputy campaign treasurer becomes vacant and no successor is appointed.

(3) Accounts kept by a campaign treasurer of a candidate or political committee must be preserved by the campaign treasurer for a period coinciding with the term of office for which the person was a candidate or for a period of 4 years, whichever is longer."

Section 2. Section 13-37-215, MCA, is amended to read:

"13-37-215. Petty cash funds allowed. (1) The campaign treasurer for each candidate or political committee is authorized to withdraw the following amount each week from the primary depository for the purpose of providing a petty cash fund for the candidate or political committee:

(a) ~~for all statewide candidates and political committees filing reports pursuant to 13-37-226(1), \$100 per week for:~~

(i) ~~all statewide candidates; and~~

(ii) ~~political committees that receive a contribution or make an expenditure supporting or opposing a candidate for a statewide office or a statewide ballot issue; and~~

(b) ~~\$25 per week~~ \$25 per week for all other candidates and political committees; ~~\$25 per week.~~

(2) The petty cash fund may be spent for office supplies, transportation expenses, postage stamps, and other necessities in an amount of less than \$25. Petty cash may not be used for the purchase of time, space, or services from any communications medium."

Section 3. Section 13-37-225, MCA, is amended to read:

"13-37-225. Reports of contributions and expenditures required – electronic filing and publication. (1) (a) Except as provided in 13-37-206, each candidate and political committee shall file with the commissioner periodic *electronic* reports of contributions and expenditures made by or on the behalf of a candidate or political committee.

(b) *The commissioner may, for good cause shown in a written application by a candidate or political committee, grant a waiver to the requirement that reports be filed electronically.*

(2) *The commissioner shall post on the commissioner's website:*

(a) *all reports filed under 13-37-226 within 7 business days of filing; and*

(b) *for each election, the calendar dates that correspond with the filing requirements of 13-37-226.*

(2)(3) In lieu of all contribution and expenditure reports required by this chapter, the commissioner shall accept copies of the reports filed by candidates for congress and president of the United States and their political committees pursuant to the requirements of federal law.

(3)(4) A person who makes an election communication, electioneering communication, or independent expenditure is subject to reporting and disclosure requirements as provided in chapters 35 and 37 of this title."

Section 4. Section 13-37-226, MCA, is amended to read:

"13-37-226. Time for filing reports. (1) ~~Candidates for a state office filled by a statewide vote of all the electors of Montana, statewide ballot issue committees, and political committees that receive a contribution or make an expenditure supporting or opposing a candidate for statewide office or a statewide ballot issue~~ *Except as provided in 13-37-206 and 13-37-225(3), a candidate shall file reports electronically required by 13-37-225(1)(a) containing the information required by 13-37-229, 13-37-231, and 13-37-232 as follows:*

(a) *quarterly, due on the 5th day following a calendar quarter, beginning with the calendar quarter in which:*

(i) *funds are received or expended during the year or years prior to the election year that the candidate expects to be on the ballot and ending in the final quarter of the year preceding the year of an election in which the candidate participates; or*

(ii) *an issue becomes a ballot issue, as defined in 13-1-101(6)(b);*

(b) *on the 1st day of each month from March through November during a year in which an election is held;*

(c) *on the 15th day preceding the date on which an election is held;*

(d) *within 2 business days after receiving a contribution of \$200 or more if received between the 20th day before the election and the day of the election;*

(e) *not more than 20 days after the date of the general election; and*

(b) *the 20th day of March, April, May, June, August, September, October, and November in the year of an election in which the candidate participates;*

(c) *within 2 business days of receiving a contribution of \$100 or more if received between the 15th day of the month preceding an election in which the candidate participates and the day of the election;*

(d) *within 2 business days of making an expenditure of \$100 or more if made between the 15th day of the month preceding an election in which the candidate participates and the day of the election;*

(f)(e) *semiannually on the 10th day of March and September, starting in the of each year following an election in which the candidate participates until the candidate or political committee files a closing report as specified in 13-37-228(3); and*

(f) *as provided by subsection (3).*

(2) ~~Candidates for a state district office, including but not limited to candidates for the legislature, the public service commission, or a district court judge, and political committees that receive contributions or make expenditures to support or oppose a particular state district candidate or issue, unless the political committee is already reporting under the provisions of subsection (1), shall file reports as follows:~~

~~(a) on the 35th and 12th days preceding the date on which an election is held;~~

~~(b) within 2 business days after receiving a contribution of \$100 or more if received between the 17th day before the election and the day of the election;~~

~~(c) not more than 20 days after the date of the election; and~~

~~(d) on the 10th day of March and September of each year following an election until the candidate or political committee files a closing report as specified in 13-37-228(3).~~

(2) Except as provided in 13-37-206, 13-37-225(3), and 13-37-227, a political committee shall file reports required by 13-35-225(1)(a) containing the information required by 13-37-229, 13-37-231, and 13-37-232 as follows:

(a) quarterly, due on the 5th day following a calendar quarter, beginning with the calendar quarter in which the political committee receives a contribution or makes an expenditure after an individual becomes a candidate or an issue becomes a ballot issue, as defined in 13-1-101(6)(b), and ending in the final quarter of the year preceding the year in which the candidate or the ballot issue appears on the ballot;

(b) the 30th day of March, April, May, June, August, September, October, and November in the year of an election in which the political committee participates;

(c) within 2 business days of receiving a contribution, except as provided in 13-37-232, of \$500 or more if received between the 25th day of the month before an election in which the political committee participates and the day of the election; and

(d) within 2 business days of making an expenditure of \$500 or more that is made between the 25th day of the month before an election in which the political committee participates and the day of the election;

(e) quarterly, due on the 5th day following a calendar quarter, beginning in the calendar quarter following a year of an election in which the political committee participates until the political committee files a closing report as specified in 13-37-228(3); and

(f) as provided by subsection (3).

(3) In addition to the reports required by subsections (1) and (2), if a candidate or a political committee participates in a special election, the candidate or political committee shall file reports as follows:

(a) a report on the 60th, 35th, and 12th days preceding the date of the special election; and

(b) 20 days after the special election.

~~(3)(4) Candidates for any other public office Except as provided by 13-37-206, candidates for a local office and political committees that receive contributions or make expenditures to support or oppose referencing a particular local issue or a local candidate shall file the reports specified in subsection (2) subsections (1) through (3) only if the total amount of contributions received or the total amount of funds expended for all elections in a campaign exceeds \$500, except as provided in 13-37-206.~~

~~(4) Independent and political party committees not required to report under subsection (1) or (2) shall file:~~

~~(a) a report on the 90th, 35th, and 12th days preceding the date of an election in which they participate by making an expenditure;~~

~~(b) a report within 2 business days of receiving a contribution of \$500 or more if received between the 17th day before the election and the day of the election;~~

~~(c) a report within 2 business days of making an expenditure of \$500 or more for an electioneering communication if the expenditure is made between the 17th day before the election and the day of the election;~~

~~(d) a report not more than 20 days after the date of the election in which they participate by making an expenditure; and~~

~~(e) a report on a date to be prescribed by the commissioner for a closing report at the close of each calendar year.~~

~~(5) An incidental committee not required to report under subsection (1) or (2) shall file a report:~~

~~(a) on the 90th, 35th, and 12th days preceding the date of an election in which it participates by making an expenditure;~~

~~(b) within 2 business days of receiving a contribution as provided in 13-37-232(1) of \$500 or more if received between the 17th day before an election and the day of the election;~~

~~(c) within 2 business days of making an expenditure of \$500 or more for an electioneering communication if the expenditure is made between the 17th day before the election and the day of the election;~~

~~(d) not more than 20 days after the date of the election in which it participated; and~~

~~(e) on a date to be prescribed by the commissioner for a closing report at the close of each calendar year.~~

~~(6) The commissioner shall post on the commissioner's website:~~

~~(a) all reports filed under this section within 7 business days of filing; and~~

~~(b) for each election the calendar dates that correspond with the filing requirements of subsections (1), (2), (4), and (5).~~

~~(7) The commissioner may require reports filed under this section to be submitted electronically.~~

~~(8)(5) Except as provided in subsections (1)(d), (2)(b), (4)(b), (4)(c), (5)(b), and (5)(c), all reports A report required by this section must be complete as of the 5th day before the date of filing as specified in 13-37-228(2) and this section must cover contributions received and expenditures made pursuant to the time periods specified in 13-37-228.~~

~~(9)(6) A political committee may file a closing report prior to the date prescribed by rule or set in 13-37-228(3) and after the complete termination of its contribution and expenditure activity during an election cycle.~~

~~(7) For the purposes of this section:~~

~~(a) a candidate participates in an election by attempting to secure nomination or election to an office that appears on the ballot; and~~

~~(b) a political committee participates in an election by receiving a contribution or making an expenditure."~~

Section 5. Section 13-37-228, MCA, is amended to read:

"13-37-228. Time periods covered by reports. Reports filed under 13-37-225 and 13-37-226 must be filed to cover the following time periods even though no contributions or expenditures may have been received or made during the period:

(1) The initial report must cover all contributions received or expenditures made by a candidate or political committee ~~prior to~~ from the time that a person became a candidate or a political committee, as defined in 13-1-101, until the 5th day before the date of filing of the appropriate initial report pursuant to ~~13-37-226(1) through (5)~~ 13-37-226. Reports filed by political committees organized to support or oppose a statewide ballot issue must disclose all contributions received and expenditures made prior to the time an issue becomes a ballot issue by transmission of the petition to the proponent of the

ballot issue or referral by the secretary of state even if the issue subsequently fails to garner sufficient signatures to qualify for the ballot.

(2) Subsequent periodic reports must cover the period of time from the closing of the previous report to 5 days before the date of filing of a report pursuant to ~~13-37-226(1) through (5)~~ 13-37-226. For the purposes of this subsection, the reports required under ~~13-37-226(1)(d), (2)(b), (4)(b), (4)(c), (5)(b), and (5)(c)~~ 13-37-226(1)(c), (1)(d), (2)(c), and (2)(d) are not periodic reports and must be filed as required by ~~13-37-226(1)(d), (2)(b), (4)(b), (4)(c), (5)(b), and (5)(c)~~ 13-37-226(1)(c), (1)(d), (2)(c), and (2)(d), as applicable.

(3) Closing reports must cover the period of time from the last periodic report to the final closing of the books of the candidate or political committee. A candidate or political committee shall file a closing report following an election in which the candidate or political committee participates whenever all debts and obligations are satisfied and further contributions or expenditures will not be received or made that relate to the campaign unless the election is a primary election and the candidate or political committee will participate in the general election.”

Approved May 10, 2019

CHAPTER NO. 430

[HB 233]

AN ACT REVISING LAWS REGARDING GUILTY PLEAS AND ELIMINATING THE RIGHT TO APPEAL TO THE MONTANA SUPREME COURT WHEN A DEFENDANT MOVES TO WITHDRAW A PLEA OF GUILTY OR NOLO CONTENDERE BECAUSE THE PLEA WAS NOT VOLUNTARILY MADE; AND AMENDING SECTIONS 3-5-303 AND 46-17-203, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 3-5-303, MCA, is amended to read:

“3-5-303. Appellate jurisdiction. ~~Except as provided in 46-17-203, the~~ The district court has appellate jurisdiction in cases arising in justices’ courts and other courts of limited jurisdiction in their respective districts as may be prescribed by law and consistent with the constitution.”

Section 2. Section 46-17-203, MCA, is amended to read:

“46-17-203. Plea of guilty – use of two-way electronic audio-video communication. (1) Before or during trial, a plea of guilty must be accepted, and a plea of nolo contendere may be accepted with the consent of the court and the prosecutor, when:

(a) subject to the provisions of subsection (3), the defendant enters a plea of guilty or nolo contendere in open court; and

(b) the court has informed the defendant of the consequences of the plea and of the maximum penalty provided by law that may be imposed upon acceptance of the plea.

(2) (a) Subject to subsection (2)(b), a plea of guilty or nolo contendere in a justice’s court, city court, or other court of limited jurisdiction waives the right of trial de novo in district court. A defendant must be informed of the waiver before the plea is accepted, and the justice or judge shall question the defendant to ensure that the plea and waiver are entered voluntarily.

(b) A defendant who claims that a plea of guilty or nolo contendere was not entered voluntarily may move to withdraw the plea. If the motion to withdraw is denied, the defendant may, within 90 days of the denial of the motion, appeal the denial of a motion to withdraw the plea to district court. The district

court may order the office of state public defender, provided for in 2-15-1029, to assign counsel pursuant to the Montana Public Defender Act, Title 47, chapter 1, hold a hearing, and enter appropriate findings of fact, conclusions of law, and a decision affirming or reversing the denial of the defendant's motion to withdraw the plea by the court of limited jurisdiction. The district court may remand the case; ~~or the~~ The defendant may *not* appeal the decision of the district court.

(3) For purposes of this section, in cases in which the defendant is charged with a misdemeanor offense, an entry of a plea of guilty or nolo contendere through the use of two-way electronic audio-video communication, allowing all of the participants to be observed and heard in the courtroom by all present, is considered to be an entry of a plea of guilty or nolo contendere in open court. Audio-video communication may be used if neither party objects and the court agrees to its use. The audio-video communication must operate as provided in 46-12-201."

Approved May 10, 2019

CHAPTER NO. 431

[HB 260]

AN ACT EXEMPTING CERTAIN CONTRACTS ISSUED UNDER THE MONTANA COMMUNITY SERVICE ACT FROM THE MONTANA PROCUREMENT ACT; AMENDING SECTION 18-4-132, MCA; AND PROVIDING AN APPLICABILITY DATE.

WHEREAS, the Montana Community Service Act promotes public service that provides a benefit to the State of Montana; and

WHEREAS, the Montana Community Service Act asks state agencies, including the Departments of Environmental Quality, Natural Resources and Conservation, Transportation, and Fish, Wildlife, and Parks, to develop and implement community service opportunities consistent with the mission and function of each agency; and

WHEREAS, the Montana Community Service Act authorizes state agencies engaged in community service to execute contracts or cooperative agreements; and

WHEREAS, the omission of the Montana Community Service Act from the list of exemptions to the Montana Procurement Act creates obstacles to the development and implementation of contracts for community service projects to benefit the state; and

WHEREAS, the addition of the Montana Community Service Act to the list of exemptions to the Montana Procurement Act is consistent with current practice for state agencies entering into contracts and cooperative agreements; and

WHEREAS, this act reconciles the intention of the Montana Community Service Act with the Montana Procurement Act to facilitate the development and implementation of community service opportunities consistent with section 90-14-105, MCA, and it clarifies that agencies, when operating under the Montana Community Service Act, may be exempted from state procurement requirements.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 18-4-132, MCA, is amended to read:

"18-4-132. Application. (1) This chapter applies to:

(a) the expenditure of public funds irrespective of their source, including federal assistance money, by this state acting through a governmental body

under any contract, except a contract exempted from this chapter by this section or by another statute;

(b) a procurement of supplies or services that is at no cost to the state and from which income may be derived by the vendor and to a procurement of supplies or services from which income or a more advantageous business position may be derived by the state; and

(c) the disposal of state supplies.

(2) This chapter or rules adopted pursuant to this chapter do not prevent any governmental body or political subdivision from complying with the terms and conditions of any grant, gift, bequest, or cooperative agreement.

(3) This chapter does not apply to:

(a) either grants or contracts between the state and its political subdivisions or other governments, except as provided in part 4;

(b) construction contracts;

(c) expenditures of or the authorized sale or disposal of equipment purchased with money raised by student activity fees designated for use by the student associations of the university system;

(d) contracts entered into by the Montana state lottery that have an aggregate value of less than \$250,000;

(e) contracts entered into by the state compensation insurance fund to procure insurance-related services;

(f) employment of:

(i) a registered professional engineer, surveyor, real estate appraiser, or registered architect;

(ii) a physician, dentist, pharmacist, or other medical, dental, or health care provider;

(iii) an expert witness hired for use in litigation, a hearings officer hired in rulemaking and contested case proceedings under the Montana Administrative Procedure Act, or an attorney as specified by executive order of the governor;

(iv) consulting actuaries;

(v) a private consultant employed by the student associations of the university system with money raised from student activity fees designated for use by those student associations;

(vi) a private consultant employed by the Montana state lottery;

(vii) a private investigator licensed by any jurisdiction;

(viii) a claims adjuster; or

(ix) a court reporter appointed as an independent contractor under 3-5-601;

(g) electrical energy purchase contracts by the university of Montana or Montana state university, as defined in 20-25-201. Any savings accrued by the university of Montana or Montana state university in the purchase or acquisition of energy must be retained by the board of regents of higher education for university allocation and expenditure.

(h) the purchase or commission of art for a museum or public display;

(i) contracting under 47-1-121 of the Montana Public Defender Act; or

(j) contracting under Title 90, chapter 4, part 11; or

(k) *contracting under Title 90, chapter 14, part 1, when the total contract value is \$12,501 or less.*

(4) (a) Food products produced in Montana may be procured by either standard procurement procedures or by direct purchase. Montana-produced food products may be procured by direct purchase when:

(i) the quality of available Montana-produced food products is substantially equivalent to the quality of similar food products produced outside the state;

(ii) a vendor is able to supply Montana-produced food products in sufficient quantity; and

(iii) a bid for Montana-produced food products either does not exceed or reasonably exceeds the lowest bid or price quoted for similar food products produced outside the state. A bid reasonably exceeds the lowest bid or price quoted when, in the discretion of the person charged by law with the duty to purchase food products for a governmental body, the higher bid is reasonable and capable of being paid out of that governmental body's existing budget without any further supplemental or additional appropriation.

(b) The department shall adopt any rules necessary to administer the optional procurement exception established in this subsection (4).

(5) As used in this section, the following definitions apply:

(a) "Food" means articles normally used by humans as food or drink, including articles used for components of articles normally used by humans as food or drink.

(b) "Produced" means planted, cultivated, grown, harvested, raised, collected, processed, or manufactured."

Section 2. Contracts and cooperative agreements authorized under part. A contract or cooperative agreement may be authorized under this part for the purposes of an exemption from the Montana Procurement Act pursuant to 18-4-132(3)(k) only if:

(1) the contract implements a community service project consistent with the provisions of 90-14-105; and

(2) the contract does not involve an activity prohibited under 90-14-106.

Section 3. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 90, chapter 14, part 1, and the provisions of Title 90, chapter 14, part 1, apply to [section 2].

Section 4. Applicability. [This act] applies to contracts and cooperative agreements executed on or after [the effective date of this act].

Approved May 10, 2019

CHAPTER NO. 432

[HB 286]

AN ACT GENERALLY REVISING WATER RIGHT LAWS IN CONNECTION WITH STATE LAND LEASES; DECLARING THAT THE USE OF PRIVATE WATER RIGHTS DERIVED FROM A WELL OR DEVELOPED SPRING WHOSE DIVERSION WORKS IS LOCATED ON PRIVATE LAND FOR USE ON STATE LAND IN CONNECTION WITH A STATE LAND LEASE DOES NOT RESULT IN AN OWNERSHIP INTEREST IN THE STATE OF MONTANA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

WHEREAS, the use of water derived from a well or developed spring whose diversion works is not located on state-owned land to provide stock water on state-owned land is in the best interest of the state land lessee and the state; and

WHEREAS, the ability to manage livestock grazing and improve grazing management through the use of stock tanks generates revenue to the state through increased revenue from grazing leases; and

WHEREAS, the state of Montana asserting ownership over privately held water rights derived from a well or developed spring whose diversion works are located wholly on private land serves as a disincentive to improving grazing management on state-owned lands through the use of water tanks; and

WHEREAS, the Montana Water Court in Case No. 43A-A found that the temporary use of a privately owned water right on state land did not equate to state ownership of all or a part of the water right; and

WHEREAS, a water right that is diverted and developed on private land is not subject to the holding in Department of State Lands v. Pettibone; and

WHEREAS, the state of Montana incorrectly expanded the scope of Department of State Lands v. Pettibone to include all trusts, not just school trust lands; and

WHEREAS, the state of Montana incorrectly expanded the scope of Department of State Lands v. Pettibone to assert ownership over water rights that were diverted and developed on private land; and

WHEREAS, the state of Montana is violating 85-2-306, MCA, in asserting ownership over a ground water development in which the state does not have exclusive property rights in the ground water development works; and

WHEREAS, the right to use water is a property right that cannot be taken without due process of law.

THEREFORE, the Legislature of the State of Montana finds that the use of water from a well or developed springs that is diverted from a privately owned diversion works located on private land and utilized on state land does not create an ownership interest in the water right in the state of Montana.

Be it enacted by the Legislature of the State of Montana:

Section 1. Temporary use of a water right on state trust land -- restrictions on state ownership -- rescinding of noncompliant ownership interests required. (1) A water right owner may put water from a well or developed spring with ground water development works located on private land to beneficial use on state trust land for the duration of a state land lease the water right owner holds.

(2) The state may not obtain an ownership interest in a water right or the ground water development works of a water right that is diverted from a well or developed spring located on private land exclusively based on trustee obligations for state trust land unless:

(a) a court of competent jurisdiction determines that the state is an owner of that particular water right; or

(b) the state is in possession of a deed transferring ownership of the water right to the state.

(3) Before September 30, 2019, the state shall rescind any claim of ownership it asserted or acquired to satisfy trustee obligations for state trust land prior to [the effective date of this act] in a water right or ground water development works that do not meet the requirements of subsection (2).

(4) For the purposes of this section, "state trust land" has the meaning provided in 77-1-101.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 85, chapter 2, and the provisions of Title 85, chapter 2, apply to [section 1].

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to water from a well or developed spring with ground water development works developed prior to [the effective date of this act].

Approved May 11, 2019

CHAPTER NO. 433

[HB 288]

AN ACT GENERALLY REVISING THE REQUIREMENTS OF THE ACHIEVING A BETTER LIFE EXPERIENCE (ABLE) PROGRAM; EXPANDING THE FAMILY MEMBERS ELIGIBLE FOR A TAX DEDUCTION FOR CONTRIBUTIONS TO ABLE ACCOUNTS; REVISING REQUIREMENTS FOR OPENING AN ACCOUNT; AMENDING SECTIONS 53-25-102, 53-25-103, 53-25-104, 53-25-105, 53-25-109, 53-25-110, 53-25-111, 53-25-112, 53-25-113, 53-25-117, 53-25-118, 53-25-119, AND 53-25-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-25-102, MCA, is amended to read:

“53-25-102. Purpose. (1) It is the intent of the legislature to ~~give Montana residents~~ provide access to a program authorized by section 529A of the Internal Revenue Code, 26 U.S.C. 529A, to encourage and assist individuals and families in saving private funds for the purpose of supporting individuals with disabilities to maintain health, independence, and quality of life and to provide secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurance, federal and state medical and disability insurance, a beneficiary’s employment, and other sources.

(2) The legislature further intends that the department achieve this purpose by:

(a) creating the Montana achieving a better life experience program, which is a public-private partnership using selected financial institutions to serve as depositories for individuals’ savings accounts established pursuant to this ~~act~~ chapter; or

(b) contracting with another state that has a program under section 529A of the Internal Revenue Code, 26 U.S.C. 529A, and that allows Montana residents to participate in the state’s program.”

Section 2. Section 53-25-103, MCA, is amended to read:

“53-25-103. Definitions. As used in this chapter, the following definitions apply:

(1) “Account” means an eligible participating account established under this chapter by or on behalf of an eligible individual.

~~(2) “Account owner” means the designated beneficiary of the account.~~

(2) “Agent” means one of the following persons acting on behalf of a designated beneficiary:

(a) a person acting under a power of attorney; or

(b) if no person holds a power of attorney, a parent or legal guardian of the designated beneficiary.

(3) “Annual contribution limit” means the limit established in section 529A(b)(2) of the Internal Revenue Code, 26 U.S.C. 529A(b)(2).

(4) “Application” means a form executed by or on behalf of a prospective ~~account owner~~ designated beneficiary to enter into a participating trust agreement and open an account. The application incorporates the participating trust agreement by reference.

(5) “Committee” means the achieving a better life experience program oversight committee established in 53-25-105.

(6) "Contribution" means a payment to an account for the benefit of a designated beneficiary.

(7) "Department" means the department of public health and human services provided for in 2-15-2201.

(8) "Designated beneficiary" means the eligible individual on whose behalf an account is established.

(9) "Disability certifications" means disability certifications as defined in section 529A(e)(2) of the Internal Revenue Code, 26 U.S.C. 529A(e)(2).

(10) "Eligible individual" means an eligible individual as defined in section 529A(e)(1) of the Internal Revenue Code, 26 U.S.C. 529A(e)(1).

(11) "Financial institution" means a bank, commercial bank, national bank, savings bank, savings and loan association, credit union, insurance company, trust company, investment adviser, or other similar entity that is authorized to do business in this state.

(12) "Investment products" means, without limitation, certificates of deposit, savings accounts paying fixed or variable interest, financial instruments, one or more mutual funds, and a mix of mutual funds.

(13) "Member of the family" means, with respect to a designated beneficiary, a member of the family of the designated beneficiary as defined in section 529A(e)(4) of the Internal Revenue Code, 26 U.S.C. 529A(e)(4).

(14) "Nonqualified withdrawal" means a withdrawal from the account that is not:

(a) a qualified withdrawal;

(b) a withdrawal made as the result of the death of the designated beneficiary of an account; or

(c) a rollover distribution or a change of designated beneficiary described in 53-25-111.

(15) "Participating trust agreement" means an agreement between ~~an account owner~~ *a designated beneficiary* and the department or its designee that creates a trust interest in the trust and provides for participation in the program.

(16) "Program" means the Montana achieving a better life experience program provided for in this ~~part~~ *chapter* and authorized under section 529A of the Internal Revenue Code, 26 U.S.C. 529A.

(17) "Program administrator" means the person appointed or contracted by the department to administer the daily operations of the program and provide marketing, recordkeeping, investment management, and other services for the program.

(18) "Program manager" means a financial institution that acts ~~as an agent~~ *on behalf* of the trust as provided in 53-25-112.

(19) "Qualified disability expenses" means qualified disability expenses as defined in section 529A(e)(5) of the Internal Revenue Code, 26 U.S.C. 529A(e)(5).

(20) "Qualified withdrawal" means a withdrawal from an account to pay the qualified disability expenses of the *designated* beneficiary of the account. A qualified withdrawal may be made by the beneficiary, ~~by an agent of the beneficiary who has a power of attorney for the beneficiary, or by the beneficiary's legal guardian or the beneficiary's agent.~~

(21) "Rollover distribution" means a transfer of funds made:

(a) from one account in another state's qualified program to an account for the benefit of the same designated beneficiary or an eligible individual who is a family member of the former designated beneficiary; or

(b) from one account to another account for the benefit of an eligible individual who is a family member of the former designated beneficiary.

(22) "Trust" means the achieving a better life experience savings trust as provided in 53-25-121.

(23) "Trustee" means the department in its capacity as trustee of the trust.

(24) "Trust interest" means ~~an account owner's~~ *a designated beneficiary's* interest in the trust created by a participating trust agreement and held for the benefit of ~~a~~ *the* designated beneficiary."

Section 3. Section 53-25-104, MCA, is amended to read:

"53-25-104. Program administration – rulemaking. (1) ~~If the department creates the~~ *There is a* Montana achieving a better life experience program; ~~it shall. The department shall~~ ensure that the program meets the requirements for an achieving a better life experience program under section 529A of the Internal Revenue Code, 26 U.S.C. 529A. The program administrator may request a private letter ruling from the internal revenue service or the United States secretary of health and human services and shall take any necessary steps to ensure that the program qualifies under federal law.

(2) The department may contract with an independent service provider as program administrator, in consultation with the committee. In considering potential independent service providers, the department shall consider each prospective provider's prior experience with disabled individuals and programs for disabled individuals, along with its other qualifications. If the department appoints one of its employees to act as program administrator, the department may contract with independent service providers to provide services including but not limited to establishing accounts, providing information about investment choices, meeting notice requirements, providing account statements, and other services typically utilized by investment and savings plans. The department may require participating financial institutions to pay the costs of the independent service provider.

(3) The department may implement the program by contracting with another state as provided under 26 U.S.C. 529A(e)(7). ~~If the department creates the program, it~~ *The department shall:*

(a) establish by rule the terms and conditions of the program subject to the requirements of this chapter and section 529A of the Internal Revenue Code, 26 U.S.C. 529A;

(b) as required under section 529A(d) of the Internal Revenue Code, 26 U.S.C. 529A(d), require the program administrator to submit:

(i) upon the establishment of each account, a notice to the United States secretary of the treasury containing the name and state of residence of the designated beneficiary and any other information the secretary may require; and

(ii) electronically on a monthly basis to the United States commissioner of social security, statements on the relevant distributions and account balances of all accounts in the state.

(4) ~~If the department creates the Montana achieving a better life experience program, the~~ *The department may contract with other states to allow the residents of those other states access to the program.*

(5) ~~If the department contracts with another state to allow Montana residents access to the other state's program, the department shall ensure that the state's program complies with the requirements of 26 U.S.C. 529A."~~

Section 4. Section 53-25-105, MCA, is amended to read:

"53-25-105. Program oversight committee – membership – powers and duties. (1) ~~If the department creates the Montana achieving a better life experience program, there must be~~ *The department shall establish a* program oversight committee under the authority of the department.

(2) The committee must consist of five members as follows:

(a) the director of the department of public health and human services or the director's designee;

(b) the director of the department of administration or the director's designee; and

(c) three members of the general public, one of whom possesses knowledge, skill, and experience in accounting, risk management, or investment management or as an actuary, ~~and two one of whom have~~ *has* experience working on behalf of disabled individuals, *and one of whom has a disability*.

(3) (a) Except as provided in subsection (3)(b), the governor shall appoint the public members of the committee to staggered terms of 4 years. The members are not subject to senate confirmation.

(b) The governor shall make the initial appointment of the public members as follows:

(i) one person to serve a 2-year term;

(ii) one person to serve a 3-year term; and

(iii) one person to serve a 4-year term.

(4) The committee shall select a presiding officer and a vice presiding officer from among the committee's membership.

(5) A majority of the membership constitutes a quorum for the transaction of business. The committee shall meet at least once a year, with additional meetings called by the presiding officer.

(6) The committee:

(a) shall recommend financial institutions for approval by the department to act as the managers of accounts as provided in 53-25-112; and

(b) may submit proposed policies to the department to help implement and administer this ~~part~~ *chapter*.

(7) The committee is allocated to the department for administrative purposes only, as provided in 2-15-121.

(8) Members of the committee must be compensated as provided in 2-15-124."

Section 5. Section 53-25-109, MCA, is amended to read:

"53-25-109. Program requirements -- application -- establishment of account -- contributions. (1) The program must be operated through use of accounts in the trust established by ~~account owners~~ *designated beneficiaries*. Payments to the trust for participation in the program must be made by or on behalf of ~~account owners~~ *designated beneficiaries* pursuant to participating trust agreements. A person who wishes to participate in the program and open an account into which funds will be deposited to pay the qualified disability expenses of a designated beneficiary shall:

(a) enter into a participating trust agreement pursuant to which an account of the trust will be established;

(b) complete an application on a form prescribed by the department that includes:

~~(i) the name, address, and social security number or employer identification number of the contributor;~~

~~(ii) the name, address, and social security number of the account owner if the account owner is not the contributor;~~

~~(iii)~~ *(i) the name, address, and social security number of the designated beneficiary and the agent, if the agent is opening the account;*

(ii) the government-issued identification of the person opening the account;

~~(iv)~~ *(iii) the certification relating to no excess contributions adopted by the department;*

~~(v)~~(iv) the designation of the financial institution with which the funds in the account will be invested; and

~~(vi)~~(v) any other information required by the department;

(c) pay the one-time application fee established by the department;

(d) make the minimum contribution required by the department; and

(e) designate the type of account to be opened if more than one type of account is offered.

~~(2) The designated beneficiary of an account must be a resident of Montana or a resident of a state that has entered into a contract with Montana to provide its residents access to the program.~~

~~(3)~~(2) Each account must be maintained separately from each other account under the program.

~~(4)~~(3) Separate records and accounting must be maintained for each account for each designated beneficiary.

~~(5)~~(4) Contributions to an account are subject to the requirements of section 529A(b)(2) of the Internal Revenue Code, 26 U.S.C. 529A(b)(2), prohibiting noncash contributions and contributions in excess of the annual contribution limit.

~~(6)~~(5) A contributor to, ~~account owner of~~, or designated beneficiary or *agent* of an account may not direct the investment of any contributions to an account or the earnings generated by an account in violation of section 529A of the Internal Revenue Code, 26 U.S.C. 529A, and may not pledge the interest of an account or use an interest in an account as security for a loan.

~~(7)~~(6) The financial institution shall provide statements to ~~account owners~~ *designated beneficiaries* whose accounts are invested with the institution at least once each year within 31 days after the 12-month period to which they relate. Each statement must identify the contributions made during the preceding 12-month period, the total contributions made through the end of the period, the value of the account as of the end of the period, distributions made during the period, and any other matters that the department requires to be reported to the ~~account owner~~ *designated beneficiary*.

~~(8)~~(7) Statements and information returns relating to accounts must be prepared and filed to the extent required by federal or state tax law or by administrative rule.

~~(9)~~(8) Application fees provided for in subsection (1)(c) must be deposited in the state special revenue fund to the credit of the department for the administration of the achieving a better life experience program."

Section 6. Section 53-25-110, MCA, is amended to read:

"53-25-110. Qualified and nonqualified withdrawals – rulemaking.

(1) ~~An account owner~~ *A designated beneficiary or agent* may withdraw all or part of the balance from an account under rules prescribed by the department. The rules must be used to help the department or program administrator to determine whether a withdrawal is a nonqualified withdrawal or a qualified withdrawal to the extent that the department concludes that it is necessary for the department or program administrator to make that determination.

(2) Upon the death of ~~an account owner~~ *a designated beneficiary*, any amount remaining in the account must be distributed pursuant to section 529A(f) of the Internal Revenue Code, 26 U.S.C. 529A(f).

(3) ~~An account owner~~ *A designated beneficiary or agent* may request a nonqualified withdrawal at any time. Nonqualified withdrawals are subject to a federal additional tax pursuant to section 529A of the Internal Revenue Code, 26 U.S.C. 529A.

(4) If a distribution is made from an account to any person or for the benefit of any person during a calendar year, the distribution must be reported to the

internal revenue service and to ~~the account owner or~~ the designated beneficiary or agent to the extent required by federal law.”

Section 7. Section 53-25-111, MCA, is amended to read:

“53-25-111. Changes in designated beneficiary. (1) ~~An account owner~~ A designated beneficiary or agent may change the designated beneficiary of an account to an individual who is a member of the family of the former designated beneficiary in accordance with procedures established by the department.

(2) If requested by ~~an account owner~~ a designated beneficiary or agent, all or a portion of an account may be transferred through a rollover distribution to another account for which the designated beneficiary is a member of the family of the designated beneficiary of the transferee account.

(3) Changes in designated beneficiaries and rollover distributions under this section are not permitted if the changes or rollover distributions would violate:

- (a) the excess contributions provisions adopted by the department; or
- (b) the investment choice provisions of 53-25-112.”

Section 8. Section 53-25-112, MCA, is amended to read:

“53-25-112. Selection of financial institution as program manager – contract – termination. (1) The department shall implement the operation of the program through the use of one or more financial institutions to act as program manager. Under the program, a person may submit applications for enrollment in the program and participating trust agreements to a program manager and establish accounts in the trust at the location of or through the program manager. ~~An account owner may deposit money in an~~ Money may be deposited into an account in the trust by paying the money to a program manager, who shall accept the money as ~~an agent for~~ on behalf of the trust. Accounts may be invested in one or more investment products approved by the department.

(2) The committee shall solicit proposals from financial institutions to act as program managers. Financial institutions that submit proposals shall describe the investment products that they propose to offer through the program.

(3) The committee shall recommend as program manager or program managers the financial institution or institutions from among bidding financial institutions that demonstrate the most advantageous combination, both to potential program participants and to this state, of:

- (a) financial stability and integrity;
- (b) the safety of the investment products being offered, taking into account any insurance provided with respect to these products;
- (c) the ability of the financial institution, directly or through a subcontract, to satisfy recordkeeping and reporting requirements;
- (d) the financial institution’s plan for promoting the program and the investment that it is willing to make to promote the program. The cost of promotional efforts may not be funded with fees imposed on ~~account owners~~ designated beneficiaries or agents.

(e) the fees, if any, proposed to be charged to persons for maintaining accounts;

(f) the minimum initial deposit and minimum contributions that the financial institution will require and the willingness of the financial institution or its subcontractors to accept contributions through payroll deduction plans and other deposit plans; and

(g) any other benefits to this state or its residents contained in the proposal, including an account opening fee payable to the department by the ~~account owner~~ designated beneficiary to cover operating expenses of the program and

any additional fee offered by the financial institution for statewide program marketing by the department.

(4) The department shall consider the committee's recommendations and the factors provided in subsection (3) when selecting program managers.

(5) The department shall enter into a contract with a financial institution to serve as program manager or, pursuant to subsection (6), into contracts with more than one financial institution to serve as program managers. Each contract must provide the terms and conditions by which the financial institution, ~~as an agent acting on behalf~~ of the trust, may assist in selling interests in the trust and the manner in which funds of an account that are designated for investment with or through the financial institution will be invested.

(6) The department may select more than one financial institution to serve as program manager. The department may select more than one kind of investment product to be offered through the program. Any decision on the use of multiple financial institutions or multiple investment products must take into account:

(a) the requirements for qualifying as a qualified program under section 529A of the Internal Revenue Code, 26 U.S.C. 529A;

(b) the differing needs of contributors regarding risk and potential return of investment instruments; and

(c) the administrative costs and burdens that may be imposed as the result of the decision.

(7) A program manager or its subcontractor shall:

(a) take action required to keep the program in compliance with its contract or the requirements of this chapter to manage the program so that it is treated as a qualified program under section 529A of the Internal Revenue Code, 26 U.S.C. 529A;

(b) keep adequate records of each account, keep each account segregated from each other account, and provide the department with the information necessary to prepare statements;

(c) if there is more than one program manager, provide the department with the information necessary to help the department determine compliance with rules adopted by the department and to comply with any state or federal tax reporting requirements;

(d) provide representatives of the department, including other contractors or other state agencies, access to the books and records of the program manager to the extent needed to determine compliance with the contract. At least once during the term of any contract, the department, its contractor, or the state agency responsible for examination oversight of the program manager shall conduct an examination to the extent needed to determine compliance with the contract.

(e) hold account funds invested by or through the financial institution in the name of and for the benefit of the trust and the ~~account owner~~ *designated beneficiary*; and

(f) assist the trustee with respect to any federal or tax filing requirements relating to the program and with respect to any other obligations of the trustee.

(8) A person may not circulate a description of the program, whether in writing or through the use of any media, unless the department or its designee first approves the description.

(9) A contract executed between the department and a financial institution pursuant to this section must be for a term of at least 3 years and not more than 7 years.

(10) If the department determines not to renew the appointment of a financial institution as program manager, the department may take action consistent with the interest of the program and the accounts and in accordance with its duties as trustee of the trust. Except as provided in subsection (11), if a contract executed between the department and a financial institution pursuant to this section is not renewed, at the end of the term of the nonrenewed contract:

(a) accounts previously established through the efforts of the financial institution may not be terminated by the trustee or department and additional contributions may be made to those accounts;

(b) the funds in new accounts established after the termination may not be invested by or through the financial institution unless a new contract is executed;

(c) account funds invested by or through the financial institution must continue to be invested in the financial products in which they were invested prior to the nonrenewal unless the ~~account owner~~ *designated beneficiary or agent* selects a different investment product; and

(d) the continuing role of the financial institution must be governed by rules or policies established by the department or a special contract and all services provided by the financial institution to accounts continue to be subject to the control of the department as trustee of the trust with responsibility for all accounts in the program.

(11) (a) The department may terminate a contract with a financial institution or prohibit the continued investment of funds by or through a financial institution under subsection (10) at any time for good cause on the recommendation of the committee. If a contract is terminated or an investment is prohibited pursuant to this subsection (11), the trustee shall take custody of account funds or assets held at that financial institution and shall seek to promptly reinvest the funds or assets by or through another financial institution that is selected as a program manager by the department and into the same investment products or into investment products selected by the department that are as similar as possible to the original investments.

(b) Prior to taking the actions described in subsection (11)(a), the department shall give ~~account owners~~ *designated beneficiaries and agents* notice of the termination and a reasonable period of time, not to exceed 30 days, to voluntarily terminate the account invested by or through the financial institution or to direct that the account be invested with or through another program manager.

(c) If the termination of a program manager causes an emergency that might lead to a loss of funds to any ~~account owner~~ *designated beneficiary*, the department or trustee may take whatever emergency action is necessary or appropriate to prevent the loss of funds invested pursuant to this chapter. After taking emergency action, the department shall provide notice and opportunity for action to ~~account owners~~ *designated beneficiaries* as provided in subsection (11)(b)."

Section 9. Section 53-25-113, MCA, is amended to read:

"53-25-113. Limitations. (1) This chapter may not be construed to:

(a) ~~give a designated beneficiary any rights or legal interest with respect to an account unless the designated beneficiary is the account owner; or~~

(b) establish state residency for a person merely because the person is a designated beneficiary.

(2) This chapter does not establish any obligation of this state or of an agency or instrumentality of this state to guarantee for the benefit of ~~an account owner, a contributor to an account, or a designated beneficiary, agent, or contributor:~~

- (a) the return of any amounts contributed to an account;
- (b) the rate of interest or other return on an account; or
- (c) the payment of interest or other return on an account.

(3) Under rules adopted by the department, each contract, application, and offering or disclosure document, and any other type of document identified by the department that may be used in connection with a contribution to an account, must clearly indicate that the account is not insured by the state and that the principal deposited and any investment return are not guaranteed by the state."

Section 10. Section 53-25-117, MCA, is amended to read:

"53-25-117. Deductions for contributions. An individual who contributes to one or more accounts *established pursuant to this chapter* in a tax year is entitled to reduce the individual's adjusted gross income, in accordance with 15-30-2110(12), by the total amount of the contributions, but not more than \$3,000. ~~The contribution must be made to an account owned by the contributor, the contributor's spouse, or the contributor's child or stepchild if the contributor's child or stepchild is a Montana resident, if the individual is:~~

- (1) *the designated beneficiary;*
- (2) *the spouse of the designated beneficiary; or*
- (3) *a parent, grandparent, sibling, or child related to the designated beneficiary by blood, marriage, or legal adoption."*

Section 11. Section 53-25-118, MCA, is amended to read:

"53-25-118. Tax on certain withdrawals of deductible contributions.

(1) There is a recapture tax at a rate equal to the highest rate of tax provided in 15-30-2103 on the recapturable withdrawal of amounts that reduced adjusted gross income under 15-30-2110(12).

(2) For purposes of determining the portion of a recapturable withdrawal that reduced adjusted gross income, all withdrawals must be allocated between income and contributions in accordance with the principles applicable under section 529A(c)(3) of the Internal Revenue Code, 26 U.S.C. 529A(c)(3). The portion of a recapturable withdrawal that is allocated to contributions must be treated as derived first from contributions, if any, that did not reduce adjusted gross income, to the extent of those contributions, and then to contributions that reduced adjusted gross income. The portion of any other withdrawal that is allocated to contributions must be treated as first derived from contributions that reduced adjusted gross income, to the extent of those contributions, and then to contributions that did not reduce adjusted gross income.

(3) (a) The recapture tax imposed by this section is payable by the ~~owner~~ *designated beneficiary* of the account from which the withdrawal or contribution was made. The tax liability must be reported on the *designated beneficiary's* income tax return ~~of the account owner~~ and is payable with the income tax payment for the year of the withdrawal or at the time that an income tax payment would be due for the year of the withdrawal. ~~The account owner~~ *designated beneficiary* is liable for the tax even if the ~~account owner~~ *designated beneficiary* is not a Montana resident at the time of the withdrawal.

(b) The department of revenue may require withholding on recapturable withdrawals from an account that was at one time owned by a Montana resident if the ~~account owner~~ *designated beneficiary* is not a Montana resident at the time of the withdrawal. For the purposes of this subsection (3)(b), amounts rolled over from an account that was at one time owned by a Montana resident must be treated as if the account is owned by a resident of Montana.

(4) For the purposes of this section, all contributions made to accounts by residents of Montana *who are eligible for the deduction allowed under 53-25-117* are presumed to have reduced the contributor's adjusted gross

income in the amount of the contribution, up to the maximum allowed by law, unless the contributor can demonstrate that all or a portion of the contributions did not reduce adjusted gross income. Contributors who claim deductions for contributions shall report on their Montana income tax returns the amount of deductible contributions made to accounts for each designated beneficiary and the social security number of each designated beneficiary.

(5) The department of revenue shall use all means available for the administration and enforcement of income tax laws in the administration and enforcement of this section.

(6) As used in this section, "recapturable withdrawal" means a withdrawal or distribution that is a nonqualified withdrawal."

Section 12. Section 53-25-119, MCA, is amended to read:

"53-25-119. Access to records. Information that identifies the contributor, account owner agent, or designated beneficiary of an account is exempt from the provisions of 2-6-1003 and any other provision of law permitting the public inspection or copying of documents."

Section 13. Section 53-25-121, MCA, is amended to read:

"53-25-121. Achieving a better life experience savings trust. (1) ~~If the department creates the Montana achieving a better life experience program,~~ *There is an achieving a better life experience savings trust that is an instrumentality of the state and that is created for a public purpose. The trust consists of trust interests, with each trust interest corresponding to an account. The assets of an account may not be commingled with the assets of any other account. The assets and earnings of an account may not be used to satisfy the obligations of any other account. Each account represents a trust interest in the trust and includes amounts received by the program from account owners pursuant to the participating trust agreement and the interest and investment income earned by the trust account.*

(2) The assets of the trust consist of investments and earnings on investments of funds received by the program as deposits to accounts and as amounts transferred to the trust from accounts established prior to October 1, 2015.

(3) In accordance with the instructions of the ~~account owner designated beneficiary or agent~~, the trustee shall invest funds deposited in each account in permitted investment products as provided in this chapter. The trustee or a financial institution acting ~~as an agent on behalf~~ of the trustee shall pay or apply funds from each account for qualified withdrawals, nonqualified withdrawals, penalties, and withholdings.

(4) ~~An account owner~~ *A designated beneficiary or agent* may execute a participating trust agreement and have funds that are held by financial institutions in accounts established prior to October 1, 2015, transferred to the trust and to the transferor's account."

Section 14. Effective date. [This act] is effective on passage and approval.

Section 15. Retroactive applicability. (1) Except as provided in subsection (2), [this act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2018.

(2) [Section 4], amending 53-25-105, does not impact an existing public member's term on the program oversight committee.

Approved May 10, 2019

CHAPTER NO. 434

[HB 291]

AN ACT ESTABLISHING THE VOLUNTARY WOLF MITIGATION ACCOUNT; PROVIDING FOR REVENUE COLLECTION AND USE OF FUNDS; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502 AND 87-2-903, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Voluntary wolf mitigation account. (1) There is a voluntary wolf mitigation account in the state special revenue fund established in 17-2-102. The account is statutorily appropriated, as provided in 17-7-502, and must be used pursuant to subsection (3) of this section.

(2) The voluntary wolf mitigation account is funded by private donations. State agencies shall, as appropriate, facilitate private donations to the account, including but not limited to the following methods:

(a) a donation by a person of \$1 or more above the price of a wildlife conservation license purchased pursuant to 87-2-202 or the price of a combination license that includes a conservation license; and

(b) a donation by a person, as defined in 2-4-102, through the websites of the department of livestock and the department of fish, wildlife, and parks.

(3) The department of livestock shall use the money collected pursuant to this section to contract for wolf management with the United States department of agriculture wildlife services, including but not limited to flight time, collaring, and lethal control of wolves.

(4) Funds collected pursuant to this section and paid by the department of livestock to the United States department of agriculture wildlife services are in addition to and not a substitute for any funds paid by the department to the United States department of agriculture wildlife services under any contract in effect on [the effective date of this act].

Section 2. Section 17-7-502, MCA, is amended to read:

“17-7-502. Statutory appropriations – definition – requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 37-54-113; 39-71-503; 41-5-2011;

42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-416; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; [section 1]; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023, and pursuant to sec. 2, Ch. 340, L. 2017, and sec. 32, Ch. 429, L. 2017, is void for fiscal years 2018 and 2019; and pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027.)"

Section 3. Section 87-2-903, MCA, is amended to read:

"87-2-903. (Temporary) Compensation, fees, and duties of agents – penalty for late submission of license money. (1) License agents, except salaried employees of the department, must receive for all services rendered a commission of 50 cents for each transaction, plus any additional amount as determined under subsection (9) and by rules adopted pursuant to subsection (10).

(2) A license agent may charge a convenience fee of up to 3% of the total amount of a transaction if a purchase is made with a credit card or a debit card.

A financial institution or credit card company may not prohibit collection of the convenience fee provided for in this subsection.

(3) Each license agent shall submit to the department the money received from the sale of licenses and aquatic invasive species prevention passes and from donations received pursuant to [76-17-102, ~~and~~] *[section 1]*, and 87-1-293, less the appropriate commission and convenience fee.

(4) Each license agent shall submit to the department copies of each paper license sold.

(5) The department may charge license agents appointed after March 1, 1998, an electronic license system fee not to exceed actual costs.

(6) The department may designate classes of license agents and may establish a protocol for each class of agent. Each license agent shall keep the license account open at all reasonable hours to inspection by the department, the director, the wardens, or the legislative auditor.

(7) For purposes of this section, the term "transaction" includes the sale of any license or permit, collection of any data or fee, or issuance of any certificate prescribed by the department. The term does not include donations collected pursuant to [76-17-102, ~~and~~] *[section 1]*, and 87-1-293 or the sale of aquatic invasive species prevention passes pursuant to 87-2-130.

(8) If a license agent fails to submit to the department all money received from the declared sale of licenses and aquatic invasive species prevention passes and from donations received pursuant to [76-17-102, ~~and~~] *[section 1]*, and 87-1-293, less the appropriate commission and convenience fee, by the deadline established by the department, an interest charge equal to the rate charged under 15-1-216 may be assessed. Acceptance of late payments with interest does not preclude the department from summarily revoking the appointment of a license agent under 87-2-904.

(9) A license agent, except for an electronic service provider, must receive a commission of 50 cents for each ticket the agent processes for a hunting license lottery held pursuant to 87-1-271.

(10) The department may adopt rules necessary to implement this section. (Terminates February 29, 2020--sec. 21(1), Ch. 387, L. 2017.)

87-2-903. (Effective March 1, 2020) Compensation, fees, and duties of agents – penalty for late submission of license money. (1) License agents, except salaried employees of the department, must receive for all services rendered a commission of 50 cents for each transaction, plus any additional amount as determined under subsection (9) and by rules adopted pursuant to subsection (10).

(2) A license agent may charge a convenience fee of up to 3% of the total amount of a transaction if a purchase is made with a credit card or a debit card. A financial institution or credit card company may not prohibit collection of the convenience fee provided for in this subsection.

(3) Each license agent shall submit to the department the money received from the sale of licenses and from donations received pursuant to [76-17-102, ~~and~~] *[section 1]*, and 87-1-293, less the appropriate commission and convenience fee.

(4) Each license agent shall submit to the department copies of each paper license sold.

(5) The department may charge license agents appointed after March 1, 1998, an electronic license system fee not to exceed actual costs.

(6) The department may designate classes of license agents and may establish a protocol for each class of agent. Each license agent shall keep the license account open at all reasonable hours to inspection by the department, the director, the wardens, or the legislative auditor.

(7) For purposes of this section, the term “transaction” includes the sale of any license or permit, collection of any data or fee, or issuance of any certificate prescribed by the department. The term does not include donations collected pursuant to [76-17-102, ~~and~~] *[section 1]*, and 87-1-293.

(8) If a license agent fails to submit to the department all money received from the declared sale of licenses and from donations received pursuant to [76-17-102, ~~and~~] *[section 1]*, and 87-1-293, less the appropriate commission and convenience fee, by the deadline established by the department, an interest charge equal to the rate charged under 15-1-216 may be assessed. Acceptance of late payments with interest does not preclude the department from summarily revoking the appointment of a license agent under 87-2-904.

(9) A license agent, except for an electronic service provider, must receive a commission of 50 cents for each ticket the agent processes for a hunting license lottery held pursuant to 87-1-271.

(10) The department may adopt rules necessary to implement this section. (Bracketed language terminates June 30, 2027--sec. 10, Ch. 374, L. 2017.)”

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 81, chapter 7, part 1, and the provisions of Title 81, chapter 7, part 1, apply to [section 1].

Section 5. Effective date. [This act] is effective July 1, 2019.

Approved May 10, 2019

CHAPTER NO. 435

[HB 324]

AN ACT GENERALLY REVISING LAWS RELATED TO COUNTY WATER AND/OR SEWER DISTRICTS; PROVIDING ADDITIONAL ASSESSMENT METHODS FOR PROPERTY ANNEXED INTO A COUNTY WATER AND/OR SEWER DISTRICT; CLARIFYING THAT NEWLY ANNEXED PROPERTY MAY BE INCLUDED IN EXISTING ASSESSMENTS; AMENDING SECTION 7-13-2341, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-13-2341, MCA, is amended to read:

“7-13-2341. Addition of land to district – election required. (1) Except as provided in subsection (5), any portion of any county or any municipality, or both, may be added to any district organized under the provisions of part 22 and this part at any time upon petition presented in the manner provided in part 22 and this part for the organization of the district.

(2) The petition may be granted by ordinance of the board of directors of the district. The ordinance must be submitted for adoption or rejection by the qualified electors.

(3) If the ordinance is approved, the president and secretary of the board of directors shall certify that fact to the secretary of state and to the county clerk and recorder of the county in which the district is located. On receipt of the certification, the secretary of state shall within 10 days issue a certificate that states the passage of the ordinance and the addition of the territory to the district. A copy of the certificate must be transmitted to and filed with the county clerk and recorder of the county in which the district is situated.

(4) After the filing of the certificate, the territory is added to and is a part of the district with all the rights, privileges, and powers set forth in this part and necessarily incident to this part.

(5) If the board of directors determines that a district has a water facility or a sewer facility with a capacity greater than required to meet the needs of the current district, it may by ordinance, on petition of contiguous property owners and with the written consent of all property owners to whom the service is to be extended, expand the district to include land, to the extent of excess capacity, without complying with subsections (1) and (2). However, if the board determines that an election should be held or if 40% or more of the qualified electors petition for an election, compliance with subsections (1) and (2) is required.

(6) (a) *Any property outside of the limits of a district that is benefited by a previously contracted improvement and is subsequently annexed to the district may be assessed for any improvements previously contracted for using the method provided in 7-12-2151(1)(d).*

(b) *The benefited property may also be assessed for any improvement, within or outside the district limits, that is determined by the board to benefit property that was outside the district limits at the time of contracting for the improvement, whether or not an improvement district was previously created for the improvement.*

(c) *After any new property is annexed to the district, the total number of lots, tracts, or parcels in the district must be recalculated pursuant to 7-12-2151(4).*

(d) *Assessment proceedings under this section are valid notwithstanding any failure of previous proceedings to comply with the provisions of law regarding improvements to be financed by special assessments."*

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 10, 2019

CHAPTER NO. 436

[HB 328]

AN ACT EXEMPTING LOCAL GOVERNMENTS FROM CERTAIN WATER QUALITY FEES; AMENDING SECTION 75-5-516, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 75-5-516, MCA, is amended to read:

"75-5-516. Fees authorized for recovery – process – rulemaking. (1)

Except as provided in ~~subsection~~ subsections (12) and (13), the board shall by rule prescribe fees to be assessed by the department that are sufficient to cover the board's and department's documented costs, both direct and indirect, of:

(a) reviewing and acting upon an application for a permit, permit modification, permit renewal, certificate, license, or other authorization required by rule under 75-5-201 or 75-5-401;

(b) reviewing and acting upon a petition for a degradation allowance under 75-5-303;

(c) reviewing and acting upon an application for a permit, certificate, license, or other authorization for which an exclusion is provided by rule from the permitting requirements established under 75-5-401;

(d) enforcing the terms and conditions of a permit or authorization identified in subsections (1)(a) through (1)(c). If the permit or authorization is not issued, the department shall return this portion of any application fee to the applicant.

(e) conducting compliance inspections and monitoring effluent and ambient water quality; and

(f) preparing water quality rules or guidance documents.

(2) Except as provided in subsection (12), the rules promulgated by the board under this section must include:

(a) a fee on all applications for permits or authorizations, as identified in subsections (1)(a) through (1)(c), that recovers to the extent permitted by this subsection (2) the department's cost of reviewing and acting upon the applications. This fee may not be more than \$5,000 per discharge point for an application addressed under subsection (1), except that an application with multiple discharge points may be assessed a lower fee for those points according to board rule.

(b) an annual fee to be assessed according to the volume and concentration of waste discharged into state waters. The annual fee may not be more than \$3,000 per million gallons discharged per day on an annual average for any activity under permit or authorization, as described in subsection (1), except that:

(i) a permit or authorization with multiple discharge points may be assessed a lower fee for those points according to board rule; and

(ii) a facility that consistently discharges effluent at less than or equal to one-half of its effluent limitations and that is in compliance with other permit requirements, using the previous calendar year's discharge data, is entitled to a 25% reduction in its annual permit fee. Proportionate reductions of up to 25% of the permit fee may be given to facilities that consistently discharge effluent at levels between 50% and 100% of their effluent limitations. However, a new permittee is not eligible for a fee reduction in its first year of operation, and a permittee with a violation of any effluent limit during the previous calendar year is not eligible for a fee reduction for the following year.

(3) To the extent permitted under subsection (2)(b), the annual fee must be sufficient to pay the department's estimated cost of conducting all tasks described under subsection (1) after subtracting:

(a) the fees collected under subsection (2)(a);

(b) state general fund appropriations for functions administered under this chapter; and

(c) federal grants for functions administered under this chapter.

(4) For purposes of subsection (3), the department's estimated cost of conducting the tasks described under subsection (1) is the amount authorized by the legislature for the department's water quality discharge permit programs.

(5) If the applicant or holder fails to pay a fee assessed under this section or rules adopted under this section within 90 days after the date established by rule for fee payment, the department may:

(a) impose an additional assessment consisting of not more than 20% of the fee plus interest on the required fee computed as provided in 15-1-216; or

(b) suspend the permit or exclusion. The department may lift the suspension at any time up to 1 year after the suspension occurs if the holder has paid all outstanding fees, including all penalties, assessments, and interest imposed under subsection (5)(a).

(6) Fees collected pursuant to this section must be deposited in an account in the special revenue fund type pursuant to 75-5-517.

(7) The department shall give written notice to each person assessed a fee under this section of the amount of fee that is assessed and the basis for the department's calculation of the fee. This notice must be issued at least 30 days prior to the due date for payment of the assessment.

(8) A holder of or an applicant for a permit, certificate, or license may appeal the department's fee assessment to the board within 20 days after receiving

written notice of the department's fee determination under subsection (7). The appeal to the board must include a written statement detailing the reasons that the permitholder or applicant considers the department's fee assessment to be erroneous or excessive.

(9) If part of the department's fee assessment is not in dispute in an appeal filed under subsection (8), the undisputed portion of the fee must be paid to the department upon written request of the department.

(10) The contested case provisions of the Montana Administrative Procedure Act, provided for in Title 2, chapter 4, part 6, apply to a hearing before the board under this section.

(11) A municipality may raise rates to cover costs associated with the fees prescribed in this section for a public sewer system without the hearing required in 69-7-111.

(12) (a) The application fee assessed pursuant to this section for a suction dredge, as described in 82-4-310(2), may not be more than:

- (i) \$25 if it is owned and operated by a resident of this state; or
- (ii) \$100 if it is owned and operated by a nonresident of this state.

(b) The annual fee assessed pursuant to this section for a suction dredge, as described in 82-4-310(2), may not be more than:

- (i) \$25 if it is owned and operated by a resident of this state; or
- (ii) \$100 if it is owned and operated by a nonresident of this state.

(13) *A county, an incorporated city or town, or a conservation district formed pursuant to Title 76, chapter 15, is not subject to fees for authorizations pursuant to 75-5-318 or certifications related to section 401 of the federal Clean Water Act, 33 U.S.C. 1341."*

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 10, 2019

CHAPTER NO. 437

[HB 389]

AN ACT EXEMPTING CERTAIN IMPLEMENTS OF HUSBANDRY AND VEHICLES TRANSPORTING HAY, STRAW, OR BOTH FROM HEIGHT RESTRICTIONS; AND AMENDING SECTION 61-10-103, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-10-103, MCA, is amended to read:

"61-10-103. Height. **A** (1) *Except as provided in subsection (2), a vehicle, unladen or with load, may not exceed a height of 14 feet.*

(2) *Subsection (1) does not apply to an implement of husbandry or a vehicle, unladen or with load, that does not exceed a height of 15 feet 6 inches if:*

(a) *the implement of husbandry or vehicle is transporting hay, straw, or both for a distance not more than 25 miles and is incidental to farming operations; and*

(b) *the implement of husbandry or the vehicle will not encounter overhead obstacles 17 feet from the ground or lower while in transit."*

Approved May 10, 2019

CHAPTER NO. 438

[HB 393]

AN ACT REVISING TRUCK SPEED LIMIT LAWS; RAISING THE SPEED LIMIT FOR TRUCKS ON FEDERAL-AID INTERSTATE HIGHWAYS TO 70 MILES AN HOUR AT ALL TIMES; RAISING THE SPEED LIMIT FOR TRUCKS ON OTHER PUBLIC HIGHWAYS TO 65 MILES AN HOUR AT ALL TIMES; AND AMENDING SECTION 61-8-312, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-8-312, MCA, is amended to read:

“61-8-312. Special speed limitations on trucks, truck tractors, and motor-driven cycles. (1) Except as provided in 61-8-303, 61-8-309, 61-8-310, and subsection (2) of this section, the speed limit for a truck or truck tractor of more than 1 ton “manufacturer’s rated capacity” traveling on:

(a) a federal-aid interstate highway is ~~65~~ 70 miles an hour; and

(b) any other public highway is ~~60~~ 65 miles an hour ~~during the daytime and 55 miles an hour during the nighttime as those terms are defined in 61-8-303.~~

(2) Except as provided in 61-8-303, 61-8-309, and 61-8-310, the speed limit for a vehicle subject to a term permit under 61-10-124(2)(d) or a truck-trailer-trailer or truck tractor-semitrailer-trailer-trailer combination of vehicles subject to special permits under 61-10-124(4) is 65 miles an hour unless otherwise stated in the permit.

(3) A person may not operate a motor-driven cycle at any time mentioned in 61-9-201 at a speed greater than 35 miles an hour unless the motor-driven cycle is equipped with a headlamp or lamps that are adequate to reveal a person or vehicle at a distance of 300 feet ahead.”

Approved May 10, 2019

CHAPTER NO. 439

[HB 431]

AN ACT CREATING THE MONTANA FARMER LOAN REPAYMENT ASSISTANCE PROGRAM BY REVISING THE MONTANA GROWTH THROUGH AGRICULTURE ACT; PROVIDING THAT INTEREST INCOME FROM COAL SEVERANCE TAX FUNDS CERTAIN GROWTH THROUGH AGRICULTURE PROGRAMS; ALLOWING THE MONTANA AGRICULTURE DEVELOPMENT COUNCIL TO PROVIDE FUNDING FOR THE FARMER LOAN REPAYMENT ASSISTANCE PROGRAM; CREATING ELIGIBILITY REQUIREMENTS; REQUIRING DOCUMENTATION FOR APPLICANTS; PROVIDING DEFINITIONS; PROVIDING FOR PRIORITIES FOR FUNDING OF PROGRAM APPLICANTS; REVISING A STATUTORY APPROPRIATION; PROVIDING RULEMAKING AUTHORITY TO MONTANA AGRICULTURE DEVELOPMENT COUNCIL; AMENDING SECTIONS 15-35-108, 90-9-102, 90-9-103, 90-9-202, 90-9-203, AND 90-9-306, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Montana farmer loan repayment assistance program.

There is a Montana farmer loan repayment assistance program administered by the council in consultation with the cooperative extension service. The program must provide for the direct repayment of educational loans of eligible

farmers in accordance with the rules adopted by the council pursuant to 90-9-203 to implement [sections 1 through 5].

Section 2. Eligibility – amount of loan repayment assistance. (1) A farmer is qualified for loan repayment assistance if the farmer:

(a) is a resident of Montana whose primary occupation is to operate a farm;
(b) has graduated from a postsecondary institution as defined in 20-26-603 with an associate degree or a baccalaureate degree;

(c) has undertaken the primary occupation of operating a farm within the applicable time period specified in 90-9-103(8)(c); and

(d) commits to operate the farm for at least 5 years after applying for loan repayment assistance pursuant to [sections 1 through 5].

(2) A farmer who is qualified pursuant to subsection (1) is eligible for loan repayment assistance for up to a maximum of 5 years.

(3) The total amount of loan repayment assistance for an eligible qualified farmer may not exceed 50% of the total amount of educational loans outstanding on the application date for loan repayment assistance.

(4) A farmer who qualifies for and receives loan repayment assistance shall repay that assistance if the farmer ceases to operate the farm before the end of the 5-year commitment.

Section 3. Payments to be made directly to educational loan servicer. (1) In administering the Montana farmer loan repayment assistance program, the council shall ensure the payments on behalf of a qualified farmer are paid directly to the educational loan servicer.

(2) A qualified farmer may choose whether the council makes one annual payment or 12 monthly payments to the educational loan servicer for each year of a qualified farmer's eligibility for loan repayment assistance.

Section 4. Loan repayment assistance documentation. A qualified farmer shall submit an application for loan repayment assistance to the council in accordance with rules adopted by the council. The application must include official verification or proof of the applicant's total unpaid accumulated educational loan debt and other documentation required by the council that is necessary to verify the applicant's eligibility.

Section 5. Funding – priorities. If the funding for [sections 1 through 5] in any year is less than the total amount of loan repayment assistance for which farmers qualify, the council shall work with the cooperative extension service to develop a method to prioritize loan repayment assistance to applicants. In developing a prioritization method, the council shall consider giving priority to applicants:

(1) with the greatest financial need;

(2) who are most likely to successfully continue operating a farm based on factors including an applicant's interest in farming, training, experience, business plan, and relationship with a mentor;

(3) who own or are working toward ownership of a farm;

(4) who operate farms that employ sustainable best practices for farming that are identified in the list of approved conservation enhancements and practices under the conservation stewardship program of the U.S. department of agriculture; and

(5) are members of groups that are underrepresented in farming in Montana.

Section 6. Section 15-35-108, MCA, is amended to read:

“15-35-108. (Temporary) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 0.85% in fiscal year 2018 and 0.88% in fiscal year 2019 must be allocated for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking and must be deposited in the basic library services account established in 22-1-202.

(4) The amount of 3.89% in fiscal year 2018 and 3.83% in fiscal year 2019 must be allocated to the department of natural resources and conservation for conservation districts and deposited in the conservation district account established in 76-15-106.

(5) The amount of 0.72% in fiscal year 2018 and 0.75% in fiscal year 2019 must be allocated to the Montana Growth Through Agriculture Act and deposited in the growth through agriculture account established in 90-9-104.

(6) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(7) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(8) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(9) The amount of 5.8% through June 30, 2019, and beginning July 1, 2019, the amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(10) After the allocations are made under subsections (2) through (9), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(11) (a) Subject to subsection (11)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

(b) The interest income of the coal severance tax permanent fund that is deposited in the general fund, ~~less the annual transfer of \$1.275 million to the research and commercialization state special revenue account pursuant to 15-1-122(2);~~ is statutorily appropriated, as provided in 17-7-502, on July 1 each year ~~through the growth through agriculture program in Title 90, chapter 9, to the department of agriculture~~ as follows:

(i) \$65,000 to the cooperative development center;

(ii) ~~\$625,000 for the growth through agriculture program provided for in Title 90, chapter 9 to the Montana agricultural development council for loans, grants, farmer loan repayment assistance, and other program costs;~~

(iii) ~~to the department of commerce:~~

(A) ~~\$125,000 for a small business development center;~~

(B) ~~\$50,000 for a small business innovative research program;~~

(C) ~~\$425,000 for certified regional development corporations;~~

~~(D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman; and~~

~~(E) \$300,000 for export trade enhancement. (Terminates June 30, 2019--secs. 2, 3, Ch. 459, L. 2009.)~~

15-35-108. (Effective July 1, 2019) Disposal of severance taxes.

Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 0.90% in fiscal year 2020 and 0.93% in fiscal year 2021 and in each fiscal year thereafter must be allocated for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking and must be deposited in the basic library services account established in 22-1-202.

(4) The amount of 3.77% in fiscal year 2020 and 3.71% in fiscal year 2021 and in each fiscal year thereafter must be allocated to the department of natural resources and conservation for conservation districts and deposited in the conservation district account established in 76-15-106.

(5) The amount of 0.79% in fiscal year 2020 and 0.82% in fiscal year 2021 and in each fiscal year thereafter must be allocated to the Montana Growth Through Agriculture Act and deposited in the growth through agriculture account established in 90-9-104.

(6) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(7) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(8) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(9) The amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(10) After the allocations are made under subsections (2) through (9), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(11) ~~AA~~ (a) *Subject to subsection (11)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.*

(b) *The interest income of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on July 1 each year through the growth through agriculture program in Title 90, chapter 9, to the department of agriculture as follows:*

(i) *\$65,000 to the cooperative development center;*

(ii) *\$625,000 to the Montana agricultural development council for loans, grants, farmer loan repayment assistance, and other program costs."*

Section 7. Section 90-9-102, MCA, is amended to read:

“90-9-102. Purpose. It is the purpose of this chapter to strengthen and diversify Montana’s agricultural industry through loans, ~~and grants, and~~ *farmer loan repayment assistance* to assist the development of innovative agricultural business organizational improvements and the commercialization and marketing of new agricultural products in order to keep pace with a transforming agricultural industry and to create new jobs and expand small business opportunities.”

Section 8. Section 90-9-103, MCA, is amended to read:

“90-9-103. Definitions. As used in this chapter, the following definitions apply:

(1) “Act” means the Montana Growth Through Agriculture Act.

(2) “Agricultural business” means an enterprise engaged in the production, processing, marketing, distribution, or exporting of agricultural products. The term includes any related business the primary function of which is providing goods or services to an agricultural enterprise.

(3) “Company” means a natural person, firm, partnership, corporation, association, or other entity authorized to conduct business in the state.

(4) “Council” means the Montana agriculture development council established in 2-15-3015.

(5) “Department” means the department of agriculture established in 2-15-3001.

(6) “Educational loan” means a loan made pursuant to a federal loan program, except for a federal parent loan for undergraduate students (PLUS) loan, as provided in 20 U.S.C. 1078-2.

(7) “Educational loan servicer” means an entity that engages for compensation or gain from another or on its own behalf, in the business of:

(a) receiving any scheduled periodic payments from a borrower pursuant to the terms of an educational loan;

(b) applying the payments of principal and interest and other payments with respect to the amounts received from a borrower, as may be required pursuant to the terms of an educational loan; and

(c) performing other administrative services with respect to an educational loan.

(8) “Farmer” means a person who:

(a) is engaged in agricultural activities, including ranching, at a farm;

(b) participates in the day-to-day operations of a farm; and

(c) is the primary owner of an agricultural operation, including an heir, a successor, or an assignee of the operation.

(9) “Federal loan program” has the meaning provided in 20-4-502.

~~(6)~~(10) (a) “Matching funds” means the funds received by the loan or grant recipient from private, federal, state, or commodity checkoff funds and contributed by the recipient in support of a loan or grant application in an amount that is at least equal to the funds disbursed to the recipient by the council.

(b) Matching funds may not include other state grants.

~~(7)~~(11) “State” means the state of Montana.”

Section 9. Section 90-9-202, MCA, is amended to read:

“90-9-202. Powers and duties of council. (1) The council shall:

(a) establish policies and priorities to enhance the future development of agriculture in Montana, including the Indian reservations in the state;

(b) make loans or grants, pursuant to the provisions of Title 90, chapter 9, part 3, that have a short-term or long-term ability to stimulate agriculture development and diversification in rural, urban, and tribal settings in Montana;

(c) *provide loan repayment assistance for farmers pursuant to [sections 1 through 5];*

(d) *consult with the cooperative extension service to administer the Montana farmer loan repayment assistance program as required by [section 1]; and*

~~(e)~~(e) *accept grants or receive devises of money or property for use in making the loans or grants and providing the loan repayment assistance authorized by this chapter.*

(2) The council may:

(a) defer or forgive any loan in whole or in part; and

(b) forgive any accrued interest in whole or in part.”

Section 10. Section 90-9-203, MCA, is amended to read:

“90-9-203. Rulemaking. The council shall adopt rules necessary to implement the provisions of this chapter, including rules:

(1) governing the conduct of council business;

(2) establishing application procedures for loans and grants authorized in 90-9-202;

(3) *establishing application procedures and required documentation for the Montana farmer loan repayment assistance program pursuant to [section 4];*

~~(3)~~(4) *establishing procedures to be followed by the council in its review process prior to making a loan or grant or providing loan repayment assistance;*

~~(4)~~(5) *establishing postdisbursement activities to monitor the use of a loan or grant by its recipient, including:*

(a) any reporting requirements; and

(b) procedures for repayment of a loan or grant upon failure of a recipient to meet the terms and conditions of that loan or grant;

~~(5)~~(6) *establishing interest rates for loans in accordance with market factors and the purposes of this chapter;*

~~(6)~~(7) *limiting the amount of loans or grants that any company may receive or apply for over a given period of time;*

~~(7)~~(8) *governing the deferral or forgiveness of loans and any accrued interest; and*

~~(8)~~(9) *establishing other terms and conditions of loans and grants and loan repayment assistance, as necessary, within the requirements and purposes of this chapter.”*

Section 11. Section 90-9-306, MCA, is amended to read:

“90-9-306. Appropriation authority and funding – prohibitions.

(1) The council may accept and expend the funds that it receives from grants, donations, or other private or public income, including amounts repaid as principal and interest on loans made by the council. These funds are statutorily appropriated to the council, as provided in 17-7-502, for the purposes of this chapter, except that expenditures for actual and necessary expenses required for the efficient administration of this chapter must be made from temporary appropriations, as described in 17-7-501(1) or (2), made for that purpose.

(2) *No more than \$100,000 of the funds expended by the council in the biennium beginning July 1, 2019, may be expended for the purposes of the Montana farmer loan repayment assistance program provided for in [sections 1 through 5]. The council may use the unspent funds for grants, loans, or other program costs pursuant to this chapter.*

~~(2)~~(3) Council members may not personally apply for or receive council funds. If an organization with which a member is affiliated applies for council funds, the member shall disclose the nature of the affiliation and, if the council member is a board member or officer of the organization, may not participate in the decision of the council regarding the application.”

Section 12. Codification instruction. [Sections 1 through 5] are intended to be codified as an integral part of Title 90, chapter 9, and the provisions of Title 90, chapter 9, apply to [sections 1 through 5].

Section 13. Codification instruction. Amendments to 15-35-108 in [section 6] make it unnecessary to remove the internal reference to that section in 17-7-502 until the amendments to 15-35-108 terminate, regardless of sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009.

Section 14. Coordination instruction. If both House Bill No. 52 and [this act] are passed and approved, and if both contain a section that amends 15-35-108, then the section of [this act] amending 15-35-108 is void.

Section 15. Effective date. [This act] is effective July 1, 2019.

Section 16. Termination. [This act] terminates June 30, 2029.

Approved May 10, 2019

CHAPTER NO. 440

[HB 440]

AN ACT REVISING SPECIAL SPEED ZONE LAWS; ALLOWING FOR SPECIAL SPEED LIMITS FOR HIGH CRASH FREQUENCY CORRIDORS; ALLOWING FOR TEMPORARY SPECIAL REDUCED LIMITS IN EVENT OF EMERGENCY, ADVERSE WEATHER, OR OTHER FACTORS IMPACTING SAFE TRAVEL; AND AMENDING SECTION 61-8-309, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 61-8-309, MCA, is amended to read:

“61-8-309. Establishment of special speed zones – engineering and traffic investigation. (1) (a) (i) If the commission determines upon the basis of an engineering and traffic investigation that a speed limit set by 61-8-303 or 61-8-312 is greater or less than is reasonable or safe under the conditions found to exist at an intersection, curve, or dangerous location or on a segment of a highway less than 50 miles in length under its jurisdiction, or on a highway corridor under its jurisdiction greater than 50 miles in length on which increased crash frequency or fatal crash data is observed, the commission may set a reasonable and safe special speed limit at that location or corridor. In the case of a school zone adjacent to a state highway, the commission is not required to base its speed limit determination solely upon the results of the engineering and traffic investigation.

(ii) *In the event of a vehicle emergency, adverse weather condition, or identification of another highway safety factor that warrants decreasing the speed limit for reasonable and safe travel, the commission may, in advance of the safety event, adopt localized geographic area temporary special reduced speed limits that are lower than a speed limit set by 61-8-303 or 61-8-312. The temporary special reduced speed limit becomes effective upon posting appropriate fixed or variable signs, and shall remain in effect while the fixed or variable signs remain posted.*

(b) If a local authority requests the department of transportation or an engineer, as provided in subsection (1)(c)(i), to conduct an engineering and traffic investigation based on the belief that a speed limit on a highway under the jurisdiction of the department of transportation is greater than is reasonable or safe, the commission may not increase the speed limit under consideration as a result of the investigation.

(c) (i) A local authority may request at its own expense that an engineering and traffic investigation be completed by a licensed professional engineer selected from a list compiled and approved by a committee as provided in subsection (1)(c)(ii).

(ii) A committee containing two department of transportation staff appointed by the director and two representatives of associations whose membership comprises cities, towns, and counties, as authorized by 7-5-2141 and 7-5-4141, shall review credentials submitted by licensed professional engineers and shall determine who appears on the list of individuals authorized to conduct engineering and traffic investigations for local governments. The list must be updated every 2 years.

(iii) Upon completion of an engineering and traffic investigation conducted for a local government, the department of transportation shall submit a report to the commission with findings and recommendations. The commission shall decide on an appropriate speed limit based on the traffic investigation within 120 days from the date the investigation is submitted to the department of transportation.

(d) A local authority may request a temporary special reduced or increased speed zone for a route or route segment that is under consideration for a reduced or increased speed limit under subsection (1)(a), (1)(b), or (1)(c). If a local authority makes multiple requests for temporary special reduced or increased speed zones, the local authority shall prioritize the requests. The department of transportation shall conduct a preliminary visual and engineering review of a route or a route segment for which a temporary special speed zone is requested. The reviewing party must include a representative of the local authority. Upon completion of the preliminary review, if the department of transportation concurs with the local authority that a temporary special reduced or increased speed limit is warranted, a temporary special reduced or increased speed zone may be established upon formal approval by the commission. The temporary special reduced or increased speed limit remains in effect until a complete traffic and engineering study has been done on the route or route segment and the commission has made a determination on changing the speed limit.

(2) Pending completion of an engineering and traffic investigation as provided for in subsection (1), the commission may temporarily set a speed limit of not less than 75 miles an hour on a segment of the federal-aid interstate highway system that it reasonably believes is not suitable for the limit established in 61-8-303(1)(a).

(3) The department of transportation shall erect and maintain appropriate signs giving notice of special limits. If the special limits apply to a school zone, the department shall consider the use of electronic signs in lieu of or in addition to other appropriate signs. When the signs are erected, the limits are effective for those zones at all times or at other times that the commission sets.

(4) The authority of the commission under this section includes the authority to set reduced nighttime speed limits on curves and other dangerous locations.

(5) This section does not authorize the commission to set a statewide speed limit.

(6) (a) The violation of a speed limit established under this section, except subsection (2), is a misdemeanor offense and is punishable as provided in 61-8-711.

(b) The violation of a speed limit established under subsection (2) is punishable as provided in 61-8-725."

Approved May 10, 2019

CHAPTER NO. 441

[HB 456]

AN ACT TO ALLOW PUBLIC UTILITIES TO PARTICIPATE IN THE ELECTRIC VEHICLE MARKETPLACE; GRANTING UTILITIES THE RIGHT TO SELL ELECTRICITY TO PRIVATE ENTITIES FOR ELECTRIC VEHICLE CHARGING SERVICE; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. As used in [sections 1 through 4], the following definitions apply:

(1) “Electric vehicle charging station” means a commercial charging station including all required equipment for the provision of power and fueling of electric vehicles.

(2) “Entity” means any party procuring power for the commercial purpose of electric vehicle charging.

Section 2. Electric vehicle charging stations – rate approval.

(1) A public utility may provide electric service to an electric vehicle charging station under a rate approved by the commission. A public utility electing to provide such service shall apply to the commission for an approved rate before agreeing to provide the service to a customer.

(2) Any rate for providing electric service to an electric vehicle charging station must be designed by the commission to fully recover from the electric charging station customer the full cost of providing the service without subsidization from other customers or customer classes.

Section 3. Electric vehicle charging stations – service entity requirements. (1) A public utility may allow an electric vehicle charging station that meets the requirements in subsection (2) to be interconnected to its distribution system.

(2) A public utility may sell power to an entity to service electric vehicle charging stations that:

(a) procure power supplied by the public utility for the purpose of electric vehicle charging; and

(b) service electric vehicle charging stations within the public utility’s service territory.

(3) Entities operating electric vehicle charging stations are not public utilities.

(4) Charges pertaining to fueling electric vehicles may not be based on the cost of electricity.

Section 4. Commission authority – rulemaking. The commission may adopt rules to implement and enforce the provisions of [sections 1 through 4].

Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 69, chapter 8, and the provisions of Title 69, chapter 8, apply to [sections 1 through 4].

Section 6. Effective date. [This act] is effective on passage and approval.

Approved May 10, 2019

CHAPTER NO. 442

[HB 467]

AN ACT GENERALLY REVISING ELECTRIC UTILITY LAWS; ALLOWING ELECTRIC UTILITIES TO APPLY TO THE PUBLIC SERVICE COMMISSION

FOR THE ISSUANCE OF BONDS TO LOWER COSTS WHEN RETIRING OR REPLACING ELECTRIC INFRASTRUCTURE OR FACILITIES; AUTHORIZING THE ISSUANCE OF ENERGY IMPACT ASSISTANCE BONDS; ALLOWING BOND PROCEEDS TO BE USED FOR ADDITIONAL PURPOSES TO BENEFIT RATEPAYERS; AUTHORIZING ENERGY IMPACT ASSISTANCE CHARGES ON RATEPAYERS; REQUIRING THE PUBLIC SERVICE COMMISSION TO REVIEW APPLICATIONS FOR FINANCING ORDERS AND APPROVE OR DENY APPLICATIONS; ESTABLISHING REQUIREMENTS FOR A FINANCING ORDER; MAKING APPROVAL OF A FINANCING ORDER IRREVOCABLE; ALLOWING THE COMMISSION TO ENGAGE OUTSIDE CONSULTANTS; PROVIDING FOR JUDICIAL REVIEW OF FINANCING ORDERS; ESTABLISHING ELECTRIC UTILITY DUTIES; PROVIDING RULEMAKING AUTHORITY; PROVIDING A STATUTORY APPROPRIATION; REQUIRING THE DEPARTMENT TO REPORT TO THE ENVIRONMENTAL QUALITY COUNCIL AND LEGISLATIVE FINANCE COMMITTEE; AMENDING SECTION 69-1-114, MCA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, customers of Montana's regulated electric utilities have an interest in ensuring that their utilities are providing efficient and cost-effective electric generation; and

WHEREAS, there are alternative financing mechanisms used by 21 other states that will result in lower costs to electric utility customers, and the use of these mechanisms can ensure that the costs of retiring or replacing electric infrastructure or facilities located in the state can be financed in a way that reduces the total amount of costs being included in customer rates; and

WHEREAS, customer costs of alternative financing mechanisms can be minimized by achieving the highest possible credit rating from independent credit rating agencies, which requires special procedures and conditions.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 19] may be cited as the "Montana Energy Impact Assistance Act".

Section 2. Purpose – legislative intent. (1) The legislature finds that it is imperative to:

(a) implement an alternative financing mechanism to address the retirement and replacement of electric infrastructure or facilities; and

(b) authorize the public service commission to review and approve one or more financing orders, if it deems approval appropriate and in the interest of ratepayers.

(2) The legislature further finds that:

(a) it is in the interest of the state and its citizens to encourage and facilitate the use of securitized ratepayer-backed bonds as a method for enabling electric utilities to lower the cost of financing the retirement or replacement of electric infrastructure or facilities under certain conditions and to empower the public service commission to review a securitization mechanism to determine whether it is consistent with the public interest and worthy of approval; and

(b) the state should authorize the issuance of low-cost securitized ratepayer-backed bonds. The proceeds of these bonds must be used solely to:

(i) lower long-term costs paid by electric utility customers by reducing financing costs of certain retired or replaced electric infrastructure or facilities; and

(ii) make available capital investment for modernized infrastructure and facilities and services, including least-cost electric generating facilities and other supply-side and demand-side resources.

Section 3. Definitions. As used in [sections 1 through 19], the following definitions apply:

(1) “Ancillary agreement” means any bond, insurance policy, letter of credit, reserve account, surety bond, interest rate lock or swap arrangement, liquidity or credit support arrangement, or other financial arrangement entered into in connection with Montana energy impact assistance bonds that is designed to promote the credit quality and marketability of Montana energy impact assistance bonds or to mitigate the risk of an increase in interest rates.

(2) “Assignee” means any person to which an interest in Montana energy impact assistance property is sold, assigned, transferred, or conveyed, other than as security, and any successor to or subsequent assignee of a person.

(3) “Bondholder” means any holder or owner of Montana energy impact assistance bonds.

(4) “Customer” means a person who takes electric service from an electric utility for consumption of electricity in Montana.

(5) “Electric infrastructure or facility” means:

(a) any portion of an electrical generating facility owned by an electric utility used to serve customers in Montana; or

(b) any infrastructure or facility involved in the transmission or delivery of electricity to Montana customers; or

(c) associated cleanup or remediation of an electrical generating facility.

(6) “Electric utility” means any electric utility regulated by the commission pursuant to Title 69, chapter 3, including the electric utility’s successors or assignees.

(7) “Financing costs” means, if approved by the commission in a financing order, costs to issue, service, repay, or refinance Montana energy impact assistance bonds, whether incurred or paid on issuance of the Montana energy impact assistance bonds or over the life of the bonds.

(8) “Financing order” means an order issued by the commission in accordance with [section 5] that grants, in whole or in part, an application filed pursuant to [section 4] authorizing the issuance of Montana energy impact assistance bonds in one or more series, the imposition, charging, and collection of Montana energy impact assistance charges, and the creation of Montana energy impact assistance property.

(9) “Financing party” means holders of Montana energy impact assistance bonds and trustees, collateral agents, any party under an ancillary agreement, or any other person acting for the benefit of Montana energy impact assistance bondholders.

(10) “Least-cost generation resource” means an incremental supply-side or demand-side resource that when included in an electric utility’s generation portfolio produces the lowest cost among alternative resources, considering both short-term and long-term costs and assessing the likelihood of changes in future fuel prices and future environmental requirements, among other considerations.

(11) “Montana energy impact assistance bonds” means low-cost corporate securities, including but not limited to senior secured bonds, debentures, notes, certificates of participation, certificates of beneficial interest, certificates of ownership, or other evidences of indebtedness or ownership that have a scheduled maturity of no longer than 30 years and a final legal maturity date that is not later than 32 years from the issue date, that are rated AA or Aa2 or better by a major independent credit rating agency at the time of issuance,

and that are issued by an electric utility or an assignee pursuant to a financing order.

(12) “Montana energy impact assistance charges” means charges in amounts determined appropriate by the commission and authorized by the commission in a financing order in order to provide a source of revenue solely to repay, finance, or refinance Montana energy impact assistance costs and financing costs that are imposed on and are a part of all customer bills and are collected in full by the electric utility that the financing order applies to, its successors or assignees, or a collection agent through a nonbypassable charge that is separate and apart from the electric utility’s base rates.

(13) (a) “Montana energy impact assistance costs” means:

(i) at the option of and upon petition by an electric utility, and as approved by the commission pursuant to [section 5], the pretax costs that the electric utility has incurred or will incur that are caused by, associated with, or remain as a result of the retirement or replacement of electric generating infrastructure or facilities located in Montana; and

(ii) pretax costs that an electric utility has previously incurred related to the closure or replacement of electric infrastructure or facilities occurring before [the effective date of this act].

(b) Costs do not include any monetary penalty, fine, or forfeiture assessed against an electric utility by a government agency or court under a federal or state environmental statute, rule, or regulation.

(14) “Montana energy impact assistance property” means:

(a) all rights and interests of an electric utility or successor or assignee of an electric utility under a financing order for the right to impose, bill, collect, and receive Montana energy impact assistance charges as it is authorized to do solely under the financing order and to obtain periodic adjustments to the Montana energy impact assistance charges as provided in the financing order; and

(b) all revenue, collections, claims, rights to payments, payments, money, or proceeds arising from the rights and interests specified in subsection (14)(a), regardless of whether the revenue, collections, claims, rights to payment, payments, money, or proceeds are imposed, billed, received, collected, or maintained together with or commingled with other revenue, collections, rights to payment, payments, money, or proceeds.

(15) “Montana energy impact assistance revenue” means revenue, receipts, collections, payments, money, claims, or other proceeds arising from Montana energy impact assistance property.

(16) “Nonbypassable” means that the payment of a Montana energy impact assistance charge required to repay bonds and related costs may not be avoided by any retail customer located within an electric utility service area.

(17) “Pretax costs” means costs approved by the commission, including but not limited to:

(a) unrecovered capitalized costs of retired or replaced electric infrastructure or facilities;

(b) costs of decommissioning and restoring the site of the electric infrastructure or facility;

(c) other applicable capital and operating costs, accrued carrying charges, deferred expenses, reductions for applicable insurance and salvage proceeds; and

(d) the costs of retiring any existing indebtedness, fees, costs, and expenses to modify existing debt agreements or for waivers or consents related to existing debt agreements.

(18) “Successor” means, with respect to any legal entity, another legal entity that succeeds by operation of law to the rights and obligations of the first legal entity pursuant to any bankruptcy, reorganization, restructuring, other insolvency proceeding, merger, acquisition, consolidation, or sale or transfer of assets, whether any of these occur due to restructuring of the electric power industry or otherwise.

Section 4. Financing orders – application requirements. (1) An electric utility may file an application with the commission for approval to issue Montana energy impact assistance bonds in one or more series, impose, charge, and collect Montana energy impact assistance charges, and create Montana energy impact assistance property related to the retirement or replacement of electric infrastructure or facilities in Montana.

(2) (a) Within 120 days of an electric utility’s submission of an application, the commission shall determine whether the application is adequate and in compliance with the commission’s minimum filing requirements established in rules adopted pursuant to [section 19]. If the commission determines that the application is inadequate, it shall explain the deficiencies.

(b) The commission shall take final action to approve, deny, or modify any application for a financing order as described in subsection (1) in a final order issued within 270 days of receiving an application.

(3) In addition to any other information required by the commission, an application for a financing order must include:

(a) an estimated schedule for the retirement or replacement;

(b) a specification of the effects of the proposed Montana energy impact assistance bond financing on the retirement or replacement;

(c) a proposed methodology for allocating the revenue requirement for the Montana energy impact assistance charge among customer classes;

(d) a description of the nonbypassable Montana energy impact assistance charge required to be paid by customers within the electric utility’s service area for recovery of Montana energy impact assistance costs;

(e) an estimate of the net present value of electric utility customer savings expected to result if the financing order is issued as determined by a net present value comparison between the costs to customers that are expected to result from the financing of the undepreciated balances of electric infrastructure or facilities with Montana energy impact assistance bonds and the costs that would result from the application of traditional electric utility financing mechanisms to the same undepreciated balances; and

(f) one or more alternative financing scenarios in addition to the preferred scenario contained in the application.

(4) The commission shall publish a notice of the proposed change on its website and conforming to the requirements of 2-4-601 in one or more newspapers published and of general circulation within the service area of the electric utility. The notice must announce a public hearing on the application, and the commission shall hold a public hearing.

Section 5. Issuance of financing orders. (1) After notice and hearing in accordance with [section 4(4)], the commission may issue a financing order if the commission finds:

(a) the Montana energy impact assistance costs described in the application related to the retirement or replacement of electric infrastructure or facilities are reasonable;

(b) the proposed issuance of Montana energy impact assistance bonds and the imposition and collection of Montana energy impact assistance charges:

(i) are just and reasonable;

(ii) are consistent with the public interest;

(iii) constitute a prudent and reasonable mechanism for the financing of Montana energy impact assistance costs described in the application; and

(iv) will provide substantial, tangible, and quantifiable benefits to customers that are greater than the benefits that would have been achieved absent the issuance of Montana energy impact assistance bonds; and

(c) the proposed structuring, marketing, and pricing of the Montana energy impact assistance bonds will:

(i) significantly lower overall costs to customers or significantly mitigate rate impacts to customers relative to traditional methods of financing; and

(ii) achieve the maximum net present value of customer savings, as determined by the commission in a financing order, consistent with market conditions at the time of sale and the terms of the financing order.

(2) (a) The financing order must:

(i) determine the maximum amount of Montana energy impact assistance costs that may be financed from proceeds of Montana energy impact assistance bonds authorized to be issued by the financing order;

(ii) describe the proposed customer billing mechanism for Montana energy impact assistance charges and include a finding that the mechanism is just and reasonable;

(iii) describe the financing costs that may be recovered through Montana energy impact assistance charges and the period over which the costs may be recovered, which must end no earlier than the date of final legal maturity of the Montana energy impact assistance bonds;

(iv) describe the Montana energy impact assistance property that is created and that may be used to pay, and secure the payment of, the Montana energy impact assistance bonds and financing costs authorized in the financing order;

(v) authorize the electric utility to finance Montana energy impact assistance costs through the issuance of one or more series of Montana energy impact assistance bonds. An electric utility is not required to secure a separate financing order for each issuance of Montana energy impact assistance bonds or for each scheduled phase of the retirement or replacement of electric infrastructure or facilities approved in the financing order;

(vi) include a formula-based adjustment mechanism for making expeditious periodic adjustments in the Montana energy impact assistance charges that customers are required to pay pursuant to the financing order and for making any adjustments that are necessary to correct for any overcollection or undercollection of the Montana energy impact assistance charges in past periods or to otherwise guarantee the timely payment of Montana energy impact assistance bonds and financing costs and other required amounts and charges payable in connection with Montana energy impact assistance bonds;

(vii) include any additional findings or conclusions determined to be appropriate by the commission and in the best interest of consumers;

(viii) specify the degree of flexibility afforded to the electric utility in establishing the terms and conditions of the Montana energy impact assistance bonds, including but not limited to repayment schedules, expected interest rates, and other financing costs;

(ix) specify the timing of actions required by the order so that:

(A) the Montana energy impact assistance bonds are issued as soon as feasible following the issuance of the financing order, independent of the schedule of closing and decommissioning of the electric infrastructure or facility; and

(B) the applicant utility files to reduce its rates as required in subsection (5) simultaneously with the inception of the Montana energy impact assistance

charges and independently of the schedule of closing and decommissioning of the electric infrastructure or facility; and

(x) specify a future ratemaking process to reconcile any difference between the projected pretax costs included in the amount financed by Montana energy impact assistance bonds and the final actual pretax costs incurred by the utility in retiring or replacing the electric infrastructure or facility.

(b) In a financing order, the commission may include any conditions that are necessary to promote the public interest and may grant relief that is different from that which was requested in the application, as long as the relief is within the scope of the matters addressed in the commission's notice of the application.

(3) For the purposes of a financing order, financing costs include:

(a) principal, interest, and redemption premiums that are payable on Montana energy impact assistance bonds;

(b) any payment required under an ancillary agreement and any amount required to fund or replenish a reserve account or other accounts established under the terms of any indenture, ancillary agreement, or other financing document pertaining to the bonds;

(c) any other demonstrable costs related to issuing, supporting, repaying, refunding, and servicing the bonds, including but not limited to servicing fees, accounting and auditing fees, trustee fees, legal fees, consulting fees, financial advisor fees, administrative fees, placement and underwriting fees, capitalized interest, rating agency fees, stock exchange listing and compliance fees, security registration fees, filing fees, information technology programming costs, and any other demonstrable costs necessary to otherwise ensure and guarantee the timely payment of the bonds or other amounts or charges payable in connection with the bonds;

(d) except as provided in 69-3-308, any taxes and license fees imposed on the revenue generated from the collection of a Montana energy impact assistance charge;

(e) except as provided in 69-3-308, any state and local taxes, including franchise, sales and use, and other taxes or similar charges, including but not limited to regulatory assessment fees, whether paid, payable, or accrued; and

(f) any costs incurred by the commission to hire and compensate additional temporary staff needed to perform its responsibilities under [sections 1 through 19] and in accordance with [section 9(4)] engage specialized counsel and expert consultants experienced in securitized electric utility ratepayer-backed bond financing similar to Montana energy impact assistance bonds.

(4) A financing order issued to an electric utility must permit and may require the creation of an electric utility's Montana energy impact assistance property pursuant to subsection (2)(a)(iv) be conditioned on, and simultaneous with, the sale or other transfer of the Montana energy impact assistance property to an assignee and the pledge of the Montana energy impact assistance property to secure Montana energy impact assistance bonds.

(5) A financing order must require the applicant utility, simultaneously with the inception of the collection of Montana energy impact assistance charges, to reduce its rates through a reduction in base rates.

Section 6. Effect of financing order. (1) A financing order remains in effect until the Montana energy impact assistance bonds issued as authorized by the financing order have been paid in full and all financing costs related to the bonds have been paid in full.

(2) A financing order remains in effect and unabated notwithstanding the bankruptcy, reorganization, or insolvency of an electric utility to which the

financing order applies or any affiliate of the electric utility or successor entity or assignee.

(3) A financing order is irrevocable, and the commission may not reduce, impair, postpone, or terminate Montana energy impact assistance charges approved in a financing order or impair Montana energy impact assistance property or the collection or recovery of Montana energy impact assistance revenue.

(4) Notwithstanding subsection (3), on its own motion or at the request of an electric utility or any other

person, the commission may commence a proceeding and issue a subsequent financing order that provides for refinancing, retiring, or refunding Montana energy impact assistance bonds issued pursuant to the original financing order if:

(a) the commission makes all of the findings specified in [section 5(1)] with respect to the subsequent financing order; and

(b) the modification provided for in the subsequent financing order does not impair in any way the covenants and terms of the Montana energy impact assistance bonds to be refinanced, retired, or refunded.

Section 7. Montana energy impact assistance bonds. (1) The proceeds of Montana energy impact assistance bonds must be used to recover, finance, or refinance commission-approved Montana energy impact assistance costs and financing costs and other costs that are secured by or payable from Montana energy impact assistance property.

(2) If certificates of participation or ownership are issued, references to principal, interest, or premium refer to comparable amounts under those certificates.

Section 8. Effect on commission jurisdiction. (1) Except as provided in subsection (2), if the commission issues a financing order to an electric utility, the commission may not, in exercising its powers and carrying out its duties pursuant to Title 69:

(a) consider the Montana energy impact assistance bonds issued pursuant to the financing order to be debt of the electric utility other than for income tax purposes unless it is necessary to consider the Montana energy impact assistance bonds to be debt to achieve consistency with prevailing utility debt rating methodologies;

(b) consider the Montana energy impact assistance charges paid under the financing order to be revenue of the electric utility;

(c) except as otherwise provided for in [sections 1 through 19] or for the purposes of establishing the electric utility's base rates, consider the Montana energy impact assistance costs or financing costs specified in the financing order to be the regulated costs or assets of the electric utility; or

(d) determine any prudent action taken by an electric utility that is consistent with the financing order to be unjust or unreasonable.

(2) Nothing in subsection (1):

(a) affects the authority of the commission to apply or modify any billing mechanism designed to recover Montana energy impact assistance charges;

(b) prevents or precludes the commission from investigating the compliance of an electric utility with the terms and conditions of a financing order and requiring compliance with the financing order; or

(c) prevents or precludes the commission from imposing regulatory sanctions against an electric utility for failure to comply with the terms and conditions of a financing order or the requirements of [sections 1 through 19].

(3) The commission may not refuse to allow the recovery of any costs associated with the retirement or replacement of electric infrastructure or

facilities by an electric utility solely because the electric utility has elected to finance those activities through a financing mechanism other than Montana energy impact assistance bonds.

(4) The commission shall authorize mitigating remedies to offset an electric utility's book losses, as determined necessary by the commission.

Section 9. Electric utility customer protection. (1) Because the commission's approval of a financing order is irrevocable, typically addresses very large amounts of financing undertaken, and is not reviewable by future commissions, in addition to its other powers and duties, the commission shall perform comprehensive due diligence in its evaluation of an application for a financing order and shall oversee the process used to structure, market, and price Montana energy impact assistance bonds.

(2) In addition to any other authority, the commission:

(a) may attach conditions to the approval of a financing order as the commission finds appropriate to maximize the financial benefits or minimize the financial risks of the transaction to customers and to directly impacted Montana workers and communities;

(b) may specify details of the process used to structure, market, and price Montana energy impact assistance bonds, including the selection of the underwriter or underwriters;

(c) shall review and determine the reasonableness of all proposed upfront and ongoing financing costs; and

(d) shall ensure that the structuring, marketing, and pricing of Montana energy impact assistance bonds maximizes net present value customer savings, consistent with market conditions and the terms of the financing order.

(3) (a) Within 120 days after the issuance of Montana energy impact assistance bonds, the applicant electric utility shall file with the commission information regarding the actual upfront and ongoing financing costs of the Montana energy impact assistance bonds. The commission shall review the prudence of the electric utility's action to determine whether the costs resulted in the lowest overall costs that were reasonably consistent with both market conditions at the time of the issuance and the terms of the financing order.

(b) Except as provided in subsection (3)(c), if the commission determines that the electric utility's actions were not prudent or were inconsistent with the financing order, the commission may apply any remedies that are available.

(c) The commission may not apply any remedy that has the effect, directly or indirectly, of impairing the security for the Montana energy impact assistance bonds.

(4) (a) In performing its responsibilities in accordance with [sections 1 through 19], the commission may engage outside consultants and counsel experienced in securitized electric utility ratepayer-backed bond financing similar to Montana energy impact assistance bonds, and the expenses associated with the engagement may be included as financing costs and included in the Montana energy impact assistance charge. The costs are not an obligation of the state and are assigned solely to the transaction.

(b) Expenses incurred by the commission to hire and compensate additional temporary staff needed to perform its responsibilities under [sections 1 through 19] must be included as financing costs and included in the Montana energy impact assistance charge.

(5) If a utility's application for a financing order is denied or withdrawn for any reason and Montana energy impact assistance bonds are not issued, the commission's costs of retaining expert consultants, as authorized by subsection (4), must be paid by the applicant utility and are considered by the commission as a prudent deferred expense for recovery in the utility's future rates.

Section 10. Judicial review of financing orders. (1) A financing order is a final order of the commission.

(2) A party aggrieved by the issuance of a financing order may petition for suspension and review of the financing order in the district court of the first judicial district, Lewis and Clark County. In the case of any petition for suspension and review, the court shall proceed to hear and determine the action as expeditiously as practicable and give the action precedence over other matters not accorded similar precedence by law.

Section 11. Electric utilities – duties – nonbypassable charges.

(1) The electric bills of an electric utility that obtains a financing order and causes Montana energy impact assistance bonds to be issued must:

(a) explicitly reflect that a portion of the charges on the bill represents Montana energy impact assistance charges approved in a financing order and, if Montana energy impact assistance property has been transferred to an assignee, must include a statement that the assignee is the owner of the rights to Montana energy impact assistance charges and that the electric utility or other entity, if applicable, is acting as a collection agent or servicer for the assignee;

(b) include the Montana energy impact assistance charge on each customer's bill as a separate line item titled "energy impact assistance charge" and may include both the rate and the amount of the charge on each bill; and

(c) explain to customers in an annual filing with the commission the rate impact that financing of the retirement or replacement of electric infrastructure or facilities has on customer rates.

(2) Montana energy impact assistance charges are nonbypassable and payment must be made by all existing and future customers receiving service from the electric utility or its successors or assignees under commission-approved rate schedules or under special contracts.

(3) The failure of an electric utility to comply with this section does not invalidate, impair, or affect any financing order, Montana energy impact assistance property, Montana energy impact assistance charge, or Montana energy impact assistance bonds, but does subject the electric utility to penalties under applicable commission rules.

(4) An electric utility that obtains a financing order and causes Montana energy impact assistance bonds to be issued must demonstrate in an annual filing with the commission that Montana energy impact assistance revenues are applied solely to the repayment of Montana energy impact assistance bonds and other financing costs.

Section 12. Montana energy impact assistance property. (1) Montana energy impact assistance property described in a financing order is an existing present property right or interest in a property right even though the imposition and collection of Montana energy impact assistance charges depends on the electric utility collecting Montana energy impact assistance charges and on future electricity consumption. The property right or interest exists regardless of whether the revenues or proceeds arising from the Montana energy impact assistance property have been billed, have accrued, or have been collected.

(2) Montana energy impact assistance property described in a financing order exists until all Montana energy impact assistance bonds issued pursuant to the financing order are paid in full and all financing costs and other costs of the Montana energy impact assistance bonds have been recovered in full.

(3) All or any portion of Montana energy impact assistance property described in a financing order issued to an electric utility may be transferred, sold, conveyed, or assigned to a successor or assignee that is wholly owned, directly or indirectly, by the electric utility and is created for the limited purpose

of acquiring, owning, or administering Montana energy impact assistance property or issuing Montana energy impact assistance bonds as authorized by the financing order. All or any portion of Montana energy impact assistance property may be pledged to secure Montana energy impact assistance bonds issued pursuant to a financing order, amounts payable to financing parties and to counterparties under any ancillary agreements, and other financing costs. Each transfer, sale, conveyance, assignment, or pledge by an electric utility or an affiliate of an electric utility is a transaction in the ordinary course of business.

(4) If an electric utility defaults on any required payment of charges arising from Montana energy impact assistance property described in a financing order, a court, upon application by an interested party and without limiting any other remedies available to the applying party, shall order the sequestration and payment of the revenues arising from the Montana energy impact assistance property to the financing parties. Any financing order remains in full force and effect notwithstanding any reorganization, bankruptcy, or other insolvency proceedings with respect to the electric utility or its successors or assignees.

(5) The interest of a transferee, purchaser, acquirer, assignee, or pledgee in Montana energy impact assistance property specified in a financing order issued to an electric utility, and in the revenue and collections arising from that property, is not subject to setoff, counterclaim, surcharge, or defense by the electric utility or any other person or in connection with the reorganization, bankruptcy, or other insolvency of the electric utility or any other entity.

(6) A successor to an electric utility, whether pursuant to any reorganization, bankruptcy, or other insolvency proceeding or whether pursuant to any merger or acquisition, sale, other business combination, or transfer by operation of law, as a result of electric utility restructuring or otherwise, must perform and satisfy all obligations of, and has the same duties and rights under a financing order as the electric utility to which the financing order applies and shall perform the duties and exercise the rights in the same manner and to the same extent as the electric utility, including collecting and paying to any person entitled to receive revenues, collections, payments, or proceeds of Montana energy impact assistance property described in the financing order.

Section 13. Montana energy impact assistance bonds – legal investments – not public debt – pledge of the state. (1) Banks, trust companies, savings and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries may legally invest any money within their control in Montana energy impact assistance bonds.

(2) Montana energy impact assistance bonds issued as authorized by a financing order are not debt of or a pledge of the faith and credit or taxing power of the state, any agency of the state, or any county, municipality, or other political subdivision of the state. Holders of Montana energy impact assistance bonds may not have taxes levied by the state or by any county, municipality, or other political subdivision of the state for the payment of the principal or interest on Montana energy impact assistance bonds. The issuance of Montana energy impact assistance bonds does not directly, indirectly, or contingently obligate the state or a political subdivision of the state to levy any tax or make any appropriation for payment of principal or interest on the Montana energy impact assistance bonds.

(3) The Montana energy impact assistance bonds issued under [sections 1 through 19] are exempt from the provisions of Title 30, chapter 10, but copies of all prospectus and disclosure documents must be deposited for public inspection with the state securities commissioner.

Section 14. Assignee or financing party not subject to commission regulation. An assignee or financing party that is not already regulated by the commission does not become subject to commission regulation solely as a result of engaging in any transaction authorized by or described in [sections 1 through 19].

Section 15. Effect of other laws. (1) If any provision of [sections 1 through 19] conflicts with any other law regarding the attachment, assignment, perfection, effect of perfection, or priority of any security interest in or transfer of Montana energy impact assistance property, the provisions of [sections 1 through 19] govern.

(2) Nothing in subsection (1) precludes a utility for which the commission has initially issued a financing order from applying to the commission for:

(a) a subsequent financing order amending the financing order as authorized by [section 6(4)]; or

(b) approval of the issuance of Montana energy impact assistance bonds to refund all or a portion of an outstanding series of Montana energy impact assistance bonds.

Section 16. Security interests in Montana energy impact assistance property. (1) The creation, perfection, and enforcement of any security interest in Montana energy impact assistance property to secure the repayment of the principal of and interest on Montana energy impact assistance bonds, amounts payable under any ancillary agreement, and other financing costs are governed by this section.

(2) The following apply to a security interest:

(a) the description or indication of Montana energy impact assistance property in a transfer or security agreement and a financing statement is sufficient only if the description or indication refers to [sections 1 through 19] and the financing order creating the Montana energy impact assistance property;

(b) a security interest in Montana energy impact assistance property is a continuously perfected security interest and has priority over any other lien, created by operation of law or otherwise, which may subsequently attach to the Montana energy impact assistance property unless the holder of the security interest has agreed in writing otherwise in accordance with Title 30, chapter 9A, part 3;

(c) the priority of a security interest in Montana energy impact assistance property is not affected by the commingling of Montana energy impact assistance property or Montana energy impact assistance revenue with other money. An assignee, bondholder, or financing party has a perfected security interest in the amount of all Montana energy impact assistance property or Montana energy impact assistance revenue that is pledged for the payment of Montana energy impact assistance bonds even if the Montana energy impact assistance property or Montana energy impact assistance revenue is deposited in a cash or deposit account of the electric utility in which the Montana energy impact assistance revenue is commingled with other money, and any other security interest that applies to the other money does not apply to the Montana energy impact assistance revenue.

(d) Neither a subsequent order of the commission amending a financing order as authorized by [section 6], nor application of an adjustment mechanism as authorized by [section 5(2)(a)(vi)], affects the validity, perfection, or priority of a security interest in or transfer of Montana energy impact assistance property.

(2) (a) A security interest in Montana energy impact assistance property is created, valid, and binding as soon as:

(i) the financing order that describes the Montana energy impact assistance property is issued;

(ii) a security agreement is executed and delivered; and

(iii) value is received for the Montana energy impact assistance bonds.

(b) Once a security interest in Montana energy impact assistance property is created, the security interest attaches without any physical delivery of collateral or any other act. The lien of the security interest is valid, binding, and perfected under Title 30, chapter 9A, part 3, against all parties having claims of any kind in tort, contract, or otherwise against the person granting the security interest, regardless of whether the parties have notice of the lien, upon the filing of a financing statement with the secretary of state.

(3) A valid and enforceable security interest in Montana energy impact assistance property is perfected only when it has attached and when a financing order has been filed with the secretary of state in accordance with procedures that the secretary of state may establish. The financing order must name the pledgor of the Montana energy impact assistance property as debtor and identify the property.

Section 17. Sales of Montana energy impact assistance property.

(1) (a) A sale, assignment, or transfer of Montana energy impact assistance property is an absolute transfer and true sale of, and not a pledge of or secured transaction relating to, the seller's right, title, and interest in, to, and under the Montana energy impact assistance property if the documents governing the transaction expressly state that the transaction is a sale or other absolute transfer. A transfer of an interest in Montana energy impact assistance property may be created when:

(i) the financing order creating and describing the Montana energy impact assistance property is effective;

(ii) the documents evidencing the transfer of the Montana energy impact assistance property are executed and delivered to the assignee; and

(iii) value is received.

(b) A transfer of an interest in Montana energy impact assistance property must be filed with the secretary of state and perfected under Title 30, chapter 9A, part 3, against all third persons, including any judicial lien or other lien creditors or any claims of the seller or creditors of the seller, other than creditors holding a prior security interest, ownership interest, or assignment in the Montana energy impact assistance property previously perfected in accordance with [section 16] or this subsection (1).

(2) The characterization of a sale, assignment, or transfer as an absolute transfer and true sale, and the corresponding characterization of the property interest of the assignee is not affected or impaired by:

(a) commingling of Montana energy impact assistance revenue with other money;

(b) the retention by the seller of:

(i) a partial or residual interest, including an equity interest, in the Montana energy impact assistance property, whether direct or indirect, or whether subordinate or otherwise; or

(ii) the right to recover costs associated with taxes, franchise fees, or license fees imposed on the collection of Montana energy impact assistance revenue;

(c) any recourse that the purchaser may have against the seller;

(d) any indemnification rights, obligations, or repurchase rights made or provided by the seller;

(e) an obligation of the seller to collect Montana energy impact assistance revenues on behalf of an assignee;

(f) the treatment of the sale, assignment, or transfer for tax, financial reporting, or other purposes;

(g) any subsequent financing order amending a financing order as authorized by [section 6]; or

(h) any application of an adjustment mechanism as authorized by [section 5(2)(a)(vi)].

Section 18. Use of amounts received by electric utility as consideration for its transfer of Montana energy impact assistance property. (1) Subject to commission approval as required by subsection (2), an electric utility shall expend or invest amounts the electric utility receives as consideration for its transfer of Montana energy impact assistance property to reduce its Montana energy impact costs and may invest or expand the remaining funds as follows:

(a) to build and own generation infrastructure and facilities that are least-cost generation resources, taking into consideration regulatory risk, current and future fuel cost and risk, and fuel delivery infrastructure costs, the addition of which is not inconsistent with the electric utility's resource procurement or integrated least-cost resource plan;

(b) to build, own, or purchase electricity storage capacity to the extent that the investment is either required by law or rule, is the least-cost, or is needed to increase the amount of least-cost generation resources that the electric utility is able to add to its generation portfolio;

(c) to invest in network modernization to the extent that the modernization is necessary to increase the amount of least-cost generation resources able to be added to the electric utility's system; and

(d) to replace any damaged or destroyed electric infrastructure or facilities involved in the transmission or delivery of electricity to Montana customers.

(2) In considering any application for approval of the use of Montana energy impact assistance bond proceeds, the commission shall:

(a) use its regular process for consideration of applications; and

(b) fully consider new energy technologies and future environmental regulations.

Section 19. Commission rulemaking. (1) The commission shall adopt rules that guide the Montana energy impact assistance bond and financing order processes in accordance with [sections 1 through 18].

(2) The rules must establish:

(a) guidelines that are consistent with the objectives in [section 2] for:

(i) meeting Montana's electricity supply resource needs; and

(ii) managing the portfolio of electricity supply resources.

(b) minimum filing requirements for applications filed pursuant to [sections 1 through 18]; and

(c) penalties for failure to comply with [section 11].

(3) The commission may adopt any other rules necessary to:

(a) govern its proceedings and procedures for the filing, investigation, and hearing of applications submitted in accordance with [sections 1 through 18]; and

(b) implement the provisions of [sections 1 through 18].

Section 20. Section 69-1-114, MCA, is amended to read:

"69-1-114. Fees. (1) Each fee charged by the commission must be reasonable.

(2) Except for a fee assessed pursuant to 69-3-204(2), 69-8-421(10), or 69-12-423(2), or [section 9(4)], a fee set by the commission may not exceed \$500.

(3) All fees collected by the department under 69-8-421(10) must be deposited in an account in the special revenue fund. Funds in this account must be used as provided in 69-8-421(10).

(4) *All fees collected by the commission under [section 9(4)] must be treated as financing costs and used in accordance with a financing order issued in accordance with [section 5].*

Section 21. Codification instruction. [Sections 1 through 19] are intended to be codified as an integral part of Title 69, and the provisions of Title 69 apply to [sections 1 through 19].

Section 22. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 23. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 24. Effective date. [This act] is effective July 1, 2019.

Approved May 10, 2019

CHAPTER NO. 443

[HB 506]

AN ACT REQUIRING THE DEPARTMENT OF ADMINISTRATION TO DEVELOP AND OFFER OPTIONS FOR LEGISLATORS TO RECEIVE THEIR SESSION SALARY OVER THEIR TERM OR A PORTION OF THEIR TERM; AMENDING SECTION 5-2-301, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-2-301, MCA, is amended to read:

“5-2-301. Compensation and expenses for members while in session. (1) Legislators are entitled to a salary commensurate to that of the daily rate for an employee earning \$10.33 an hour when the regular session of the legislature in which they serve is convened under 5-2-103 for those days during which the legislature is in session. The hourly rate must be adjusted by any statutorily required pay increase. The president of the senate and the speaker of the house must receive an additional \$5 a day in salary for those days during which the legislature is in session.

(2) Legislators may serve for no salary.

(3) Subject to subsection (4), legislators are entitled to a daily allowance, 7 days a week, during a legislative session, as reimbursement for expenses incurred in attending a session. Expense payments must stop when the legislature recesses for more than 3 days and resume when the legislature reconvenes.

(4) After November 15, and prior to December 15 of each even-numbered year, the department of administration shall conduct a survey of the allowance for daily expenses of legislators for the states of North Dakota, South Dakota, Wyoming, and Idaho. The department shall include the average daily expense allowance for Montana legislators in determining the average daily rate for legislators. The department shall include only states with specific daily allowances in the calculation of the average. If the average daily rate is greater than the daily rate for legislators in Montana, legislators are entitled to a new daily rate for those days during which the legislature is in session.

The new daily rate is the daily rate for the prior legislative session, increased by the percentage rate increase as determined by the survey, a cost-of-living increase to reflect inflation that is calculated pursuant to 2-15-122(5)(a), or 5%, whichever is less. The expense allowance is effective when the next regular session of the legislature in which the legislators serve is convened under 5-2-103.

(5) Legislators are entitled to a mileage allowance as provided in 2-18-503 for each mile of travel to the place of the holding of the session and to return to their place of residence at the conclusion of the session.

(6) In addition to the mileage allowance provided for in subsection (5), legislators, upon submittal of an appropriate claim for mileage reimbursement to the legislative services division, are entitled to:

(a) three additional round trips to their place of residence during each regular session; and

(b) additional round trips as authorized by the legislature during special session.

(7) Legislators are not entitled to any additional mileage allowance under subsection (5) for a special session if it is convened within 7 days of a regular session.

(8) *The department of administration shall work with the legislative services division to offer options to legislators to receive their session salary provided for in subsection (1) over the 2-year legislative term or a portion of the term. The options must be offered to all legislators in order to assist legislators to manage their income over the term. The per diem allowance and mileage as provided in this section, salary during the special session as provided in 5-3-101, and the salary during interim as provided for in 5-2-302 may not be affected.*

Section 2. Applicability. [This act] applies to legislators' terms for the 67th Legislature beginning January 4, 2021.

Approved May 10, 2019

CHAPTER NO. 444

[HB 514]

AN ACT REVISING THE PROPERTY TAX APPEAL PROCESS; PROVIDING A TAXPAYER WITH THE OPTION TO REQUEST INFORMAL CLASSIFICATION AND APPRAISAL REVIEW FROM THE DEPARTMENT OF REVENUE BY CHECKING A BOX ON A CLASSIFICATION AND APPRAISAL NOTICE; AMENDING SECTION 15-7-102, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-7-102, MCA, is amended to read:

"15-7-102. Notice of classification, market value, and taxable value to owners – appeals. (1) (a) Except as provided in 15-7-138, the department shall mail or provide electronically to each owner or purchaser under contract for deed a notice that includes the land classification, market value, and taxable value of the land and improvements owned or being purchased. A notice must be mailed or, *with property owner consent, provided electronically* to the owner only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

- (i) change in ownership;
- (ii) change in classification;
- (iii) change in valuation; or

(iv) addition or subtraction of personal property affixed to the land.

(b) The notice must include the following for the taxpayer's informational *and informal classification and appraisal review* purposes:

(i) a notice of the availability of all the property tax assistance programs available to property taxpayers, including the intangible land value assistance program provided for in 15-6-240, the property tax assistance programs provided for in Title 15, chapter 6, part 3, and the residential property tax credit for the elderly provided for in 15-30-2337 through 15-30-2341;

(ii) the total amount of mills levied against the property in the prior year; *and*

(iii) a statement that the notice is not a tax bill; *and*

(iv) *a taxpayer option to request an informal classification and appraisal review by checking a box on the notice and returning it to the department.*

(c) When the department uses an appraisal method that values land and improvements as a unit, including the sales comparison approach for residential condominiums or the income approach for commercial property, the notice must contain a combined appraised value of land and improvements.

(d) Any misinformation provided in the information required by subsection (1)(b) does not affect the validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

(2) (a) Except as provided in subsection (2)(c), the department shall assign each classification and appraisal to the correct owner or purchaser under contract for deed and mail or provide electronically the notice in written or electronic form, adopted by the department, containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over the prior tax year.

(b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

(c) The department is not required to mail or provide electronically the notice to a new owner or purchaser under contract for deed unless the department has received the realty transfer certificate from the clerk and recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection (2)(a) are mailed or provided electronically. The department shall notify the county tax appeal board of the date of the mailing or the date when the taxpayer is informed the information is available electronically.

(3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of the land or improvements, the owner may request an informal classification and appraisal review by submitting an objection on written or electronic forms provided by the department for that purpose *or by checking a box on the notice and returning it to the department in a manner prescribed by the department.*

(i) For property other than class three property described in 15-6-133, class four property described in 15-6-134, and class ten property described in 15-6-143, the objection must be submitted within 30 days from the date on the notice.

(ii) For class three property described in 15-6-133 and class four property described in 15-6-134, the objection may be made only once each valuation cycle. An objection must be made in writing *or by checking a box on the notice* within 30 days from the date on the classification and appraisal notice for a reduction in the appraised value to be considered for both years of the 2-year

valuation cycle. An objection made more than 30 days from the date of the classification and appraisal notice will be applicable only for the second year of the 2-year valuation cycle. For an objection to apply to the second year of the valuation cycle, the taxpayer must make the objection in writing *or by checking a box on the notice* no later than June 1 of the second year of the valuation cycle or, if a classification and appraisal notice is received in the second year of the valuation cycle, within 30 days from the date on the notice.

(iii) For class ten property described in 15-6-143, the objection may be made at any time but only once each valuation cycle. An objection must be made in writing *or by checking a box on the notice* within 30 days from the date on the classification and appraisal notice for a reduction in the appraised value to be considered for all years of the 6-year appraisal cycle. An objection made more than 30 days after the date of the classification and appraisal notice applies only for the subsequent remaining years of the 6-year reappraisal cycle. For an objection to apply to any subsequent year of the valuation cycle, the taxpayer must make the objection in writing *or by checking a box on the notice* no later than June 1 of the year for which the value is being appealed or, if a classification and appraisal notice is received after the first year of the valuation cycle, within 30 days from the date on the notice.

(b) If the objection relates to residential or commercial property and the objector agrees to the confidentiality requirements, the department shall provide to the objector, by posted mail or electronically, within 8 weeks of submission of the objection, the following information:

(i) the methodology and sources of data used by the department in the valuation of the property; and

(ii) if the department uses a blend of evaluations developed from various sources, the reasons that the methodology was used.

(c) At the request of the objector, and only if the objector signs a written or electronic confidentiality agreement, the department shall provide in written or electronic form:

(i) comparable sales data used by the department to value the property; and

(ii) sales data used by the department to value residential property in the property taxpayer's market model area.

(d) For properties valued using the income approach as one approximation of market value, notice must be provided that the taxpayer will be given a form to acknowledge confidentiality requirements for the receipt of all aggregate model output that the department used in the valuation model for the property.

(e) The review must be conducted informally and is not subject to the contested case procedures of the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling price of the property and other relevant information presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property. The department shall consider an independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate appraisers and the appraisal was completed within 6 months of the valuation date pursuant to 15-8-201. If the department does not use the appraisal provided by the taxpayer in conducting the appeal, the department must provide to the taxpayer the reason for not using the appraisal. The department shall give reasonable notice to the taxpayer of the time and place of the review.

(f) After the review, the department shall determine the correct appraisal and classification of the land or improvements and notify the taxpayer of its determination by mail or electronically. The department may not determine an appraised value that is higher than the value that was the subject of the

objection unless the reason for an increase was the result of a physical change in the property or caused by an error in the description of the property or data available for the property that is kept by the department and used for calculating the appraised value. In the notification, the department shall state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land must be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a review as provided in subsection (3) is held or not, the department may not adjust an appraisal or classification upon the taxpayer's objection unless:

(a) the taxpayer has submitted an objection on written or electronic forms provided by the department or *by checking a box on the notice*; and

(b) the department has provided to the objector by mail or electronically its stated reason in writing for making the adjustment.

(5) A taxpayer's written objection *or objection made by checking a box on the notice and supplemental information provided by a taxpayer that elects to check a box on the notice* to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. The department shall make the records available for inspection during regular office hours.

(6) If a property owner feels aggrieved by the classification or appraisal made by the department after the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts. The appeal to the county tax appeal board, pursuant to 15-15-102, must be filed within 30 days from the date on the notice of the department's determination. A county tax appeal board or the state tax appeal board may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order."

Section 2. Applicability. [This act] applies to property tax years beginning after December 31, 2019.

Approved May 10, 2019

CHAPTER NO. 445

[HB 515]

AN ACT GENERALLY REVISING MOTOR VEHICLE LAWS; PROVIDING FOR REVOCATION OF A COMMERCIAL DRIVER'S LICENSE FOR HUMAN TRAFFICKING; REVISING THE DRIVER REHABILITATION PROGRAM; REVISING LICENSE REQUIREMENTS AND RENEWALS; ALLOWING A KNOWLEDGE TEST REGARDING MILITARY COMMERCIAL MOTOR VEHICLE EXPERIENCE; REVISING RESTORATION REQUIREMENTS; REVISING SELF-INSURANCE REQUIREMENTS; ELIMINATING CERTAIN INDEMNITY BONDS; REVISING RECORDKEEPING; LIMITING DISCLOSURE OF SOCIAL SECURITY NUMBERS; REVISING MOVING VIOLATIONS PROVISIONS FOR HABITUAL OFFENDERS; AMENDING SECTIONS 61-2-302, 61-5-111, 61-5-123, 61-6-131, 61-6-157, 61-6-301, 61-6-302,

61-6-303, 61-11-102, 61-11-203, AND 61-11-508, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Permanent revocation of commercial driver's license – felony involving use of commercial motor vehicle for trafficking of persons. If the department receives a conviction report that a person used a commercial motor vehicle in the commission of an offense under 45-5-702 or a similar law in another state or in the commission of a felony of trafficking of persons, the department shall revoke the person's commercial driver's license for life and may not reinstate the commercial driver's license for any reason.

Section 2. Section 61-2-302, MCA, is amended to read:

"61-2-302. Establishment of driver rehabilitation and improvement program – participation by offending drivers. (1) The department may establish by administrative rules *rule* a driver rehabilitation and improvement program or programs. The programs may consist of *electronic or* classroom instruction in rules of the road, driving techniques, defensive driving, driver attitudes and habits, actual on-the-road driver's training, and other subjects or tasks designed to contribute to proper driving attitudes, habits, and techniques and must include the requirements for obtaining a restricted probationary driver's license.

(2) Except when otherwise provided or restricted by statute, a person whose driver's license is suspended or revoked by the department, unless the suspension or revocation was for an offense under 61-8-401, 61-8-406, or 61-8-411, may participate in any driver rehabilitation and improvement program established under this section if the person's license is:

(a) suspended as a result of a violation of the traffic laws of this state, unless the suspension was imposed under the authority provided in Title 61, chapter 8, part 8; or

(b) revoked and the person has:

(i) completed at least 3 months of a 1-year revocation; or

(ii) completed 1 year of a 3-year revocation; and

(iii) met the requirements for reobtaining a Montana driver's license.

(3) Notwithstanding any provision of this part inconsistent with any other law of the state of Montana, the enforcement of any suspension or revocation order that constitutes the basis for any person's participation in the driver rehabilitation and improvement program provided for in this section may be stayed if that person complies with the requirements established for the driver rehabilitation and improvement program and meets the eligibility requirements of subsection (2).

(4) If a person's driver's license has been surrendered before the person's selection for participation in the driver rehabilitation and improvement program, the license may be returned upon receipt of the person's agreement to participate in the program.

(5) The stay of enforcement of any suspension or revocation action must be terminated and the suspension or revocation action must be reinstated if a person declines to participate in the driver rehabilitation and improvement program or fails to meet the attendance or other requirements established for participation in the program.

(6) This part does not create a right to be included in any program established under this part.

(7) The department may establish a schedule of fees that may be charged to those persons participating in the driver improvement and rehabilitation program. The fees must be used to help defray costs of maintaining the program.

(8) A person may be referred to this program by a driver improvement analyst, city judge, justice of the peace, youth court judge, *or judge of a district court of the state; or hearing examiner of the department.*

(9) (a) Except as provided in subsection (9)(b), the department may issue a restricted probationary license to any person who enrolls and participates in the driver rehabilitation and improvement program. Upon issuance of a probationary license under this section, the licensee is subject to the restrictions set forth on the license.

(b) The department may not issue a restricted probationary license that would permit an individual to drive a commercial motor vehicle during a period in which:

(i) the individual is disqualified from operating a commercial motor vehicle under state or federal law; or

(ii) the individual's driver's license or driving privilege is revoked, suspended, or canceled.

(10) It is a misdemeanor for a person to operate a motor vehicle in any manner in violation of the restrictions imposed on a restricted license issued to the person under this section."

Section 3. Section 61-5-111, MCA, is amended to read:

"61-5-111. Contents of driver's license, renewal, license expirations, license replacements, grace period, and fees for licenses, permits, and endorsements – notice of expiration.(1) (a) The department may appoint county treasurers and other qualified officers to act as its agents for the sale of driver's license receipts. The department shall adopt necessary rules governing sales. In areas in which the department provides driver licensing services 3 days or more a week, the department is responsible for sale of receipts and may appoint an agent to sell receipts.

(b) The department may enter into an authorized agent agreement with the county treasurer of any county in which the department no longer maintains a driver examination station for the purpose of providing driver's license renewal services.

(2) (a) The department, upon receipt of payment of the fees specified in this section, shall issue a driver's license to each qualifying applicant. The license must contain:

(i) a full-face photograph of the licensee in the size and form prescribed by the department;

(ii) a distinguishing number issued to the licensee;

(iii) the full legal name, date of birth, *and Montana residence address unless the licensee requests use of the mailing address, and a brief description of the licensee except that the Montana residence address must be used for a REAL ID-compliant driver's license unless authorized by department rule;*

(iv) *a brief description of the licensee;*

~~(iv)~~(v) either the licensee's customary manual signature or a reproduction of the licensee's customary manual signature; and

~~(v)~~(vi) if the applicant qualifies under subsection (7), indication of the applicant's status as a veteran.

(b) The department may not use the licensee's social security number as the distinguishing number. A license is not valid until it is signed by the licensee.

(3) (a) When a person applies for renewal of a driver's license, the department shall conduct a records check in accordance with 61-5-110(1) to determine the applicant's eligibility status and shall test the applicant's eyesight. The department may also require the applicant to submit to a knowledge and road or skills test if:

(i) the renewal applicant has a physical or mental disability, limitation, or condition that impairs, or may impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; and

(ii) the expired or expiring license does not include adaptive equipment or operational restrictions appropriate to the applicant's functional abilities; or

(iii) the applicant wants to remove or modify the restrictions stated on the expired or expiring license.

(b) In the case of a commercial driver's license, the department shall, if the information was not provided in a prior licensing cycle, require the renewal applicant to provide the name of each jurisdiction in which the applicant was previously licensed to drive any type of motor vehicle during the 10-year period immediately preceding the date of the renewal application and may also require that the applicant successfully complete a written examination as required by federal regulations.

(c) A person is considered to have applied for renewal of a Montana driver's license if the application is made within 6 months before or 3 months after the expiration of the person's license. Except as provided in subsection (3)(d), a person seeking to renew a driver's license shall appear in person at a Montana driver's examination station.

(d) (i) Except as provided in subsections (3)(d)(iii) through (3)(d)(vi), a person may renew a driver's license by mail or online.

(ii) An applicant who renews a driver's license by mail or online shall submit to the department an approved vision examination and a medical evaluation from a licensed physician, licensed physician assistant, or advanced practice registered nurse, as defined in 37-8-102, in addition to the fees required for renewal.

(iii) If the department does not have a digitized photograph and signature record of the renewal applicant from the expiring license, then the renewal applicant shall apply in person.

(iv) Except as provided in subsections (4)(b) and (4)(c), the term of a license renewed by mail or online is 8 years.

(v) The department may not renew a license by mail or online if:

(A) the records check conducted in accordance with 61-5-110(1) shows an ineligible license status for the applicant;

(B) the applicant holds a commercial driver's license with a hazardous materials endorsement, the retention of which requires additional testing and a security threat assessment under 49 CFR, part 1572;

(C) the applicant seeks a change of address, *a change of date of birth*, or a name change; or

(D) the applicant's license:

(I) has been expired for 3 months or longer; or

(II) except as provided in subsection (3)(e), was renewed by mail or online at the time of the applicant's previous renewal.

(vi) If a license was issued to a foreign national whose presence in the United States is temporarily authorized under federal law, the license may not be renewed by mail or online.

(e) The spouse or a dependent of a renewal applicant who is stationed outside Montana on active military duty may renew the applicant's license by mail or online for one additional consecutive term following a renewal by mail or online.

(f) The department shall *send electronically or* mail a driver's license renewal notice no earlier than ~~90~~ 120 days and no later than 30 days prior to the expiration date of a driver's license. ~~Except as provided in 61-3-119~~

~~and 61-5-115, the~~ *The department shall mail send the notice to the licensee's Montana mailing address shown on the driver's license: shown on the driver's license or, if requested by the licensee, provide the notice using an authorized method of electronic delivery, or both.*

(4) (a) Except as provided in subsections (4)(b) through (4)(e), a license expires on the anniversary of the licensee's birthday 8 years or less after the date of issue or on the licensee's 75th birthday, whichever occurs first.

(b) A license issued to a person who is 75 years of age or older expires on the anniversary of the licensee's birthday 4 years or less after the date of issue.

(c) A license issued to a person who is under 21 years of age expires on the licensee's 21st birthday.

(d) (i) Except as provided in subsection (4)(d)(ii), a commercial driver's license expires on the anniversary of the licensee's birthday ~~5~~ 4 years or less after the date of issue.

(ii) When a person obtains a Montana commercial driver's license with a hazardous materials endorsement after surrendering a comparable commercial driver's license with a hazardous materials endorsement from another licensing jurisdiction, the license expires on the anniversary of the licensee's birthday ~~5~~ 4 years or less after the date of the issue of the surrendered license if, as reported in the commercial driver's license information system, a security threat assessment was performed on the person as a condition of issuance of the surrendered license.

(e) A license issued to a person who is a foreign national whose presence in the United States is temporarily authorized under federal law expires, as determined by the department, no later than the expiration date of the official document issued to the person by the bureau of citizenship and immigration services of the department of homeland security authorizing the person's presence in the United States.

(f) The department may adopt rules to implement online driver's license renewal.

(5) When the department issues a driver's license to a person under 18 years of age, the license must be clearly marked with a notation that conveys the restrictions imposed under 61-5-133.

(6) (a) Upon application for a driver's license or commercial driver's license and any combination of the specified endorsements, the following fees must be paid:

(i) driver's license, except a commercial driver's license -- \$5 a year or fraction of a year;

(ii) motorcycle endorsement -- 50 cents a year or fraction of a year;

(iii) commercial driver's license:

(A) interstate -- \$10 a year or fraction of a year; or

(B) intrastate -- \$8.50 a year or fraction of a year.

(b) A renewal notice for either a driver's license or a commercial driver's license is 50 cents.

(7) (a) Upon receiving a request from a person whose status as a veteran has been verified by the department of military affairs pursuant to 10-2-1301 and upon receiving the information and fees required in this part, the department shall include the word "veteran" on the face of the license.

(b) After a person's status as a veteran is denoted on a driver's license, the department may not require further documentation of that status from the holder of the license upon subsequent renewal or replacement.

(8) (a) *Except as provided in subsection (8)(b), an applicant may request a replacement driver's license online or by mail.*

(b) *If the department does not have a digitized photograph and signature record of the applicant, the applicant shall apply in person.*

(c) *The term of the replacement license must be the term of the applicant's current driver's license.*

(9) (a) *An applicant may request an expedited delivery service for a driver's license or identification card. The department shall set a fee for expedited delivery based on the cost of providing this service.*

(b) *The fees for expedited delivery must be deposited in the motor vehicle division administration account established in 61-3-112 and used for the purposes of expediting delivery, including actual costs for delivery, personnel, and related technology."*

Section 4. Section 61-5-123, MCA, is amended to read:

"61-5-123. Waiver of skills test or knowledge test related to military commercial motor vehicles experience – rulemaking. (1) The department may waive the skills test or knowledge test, or both, required for a commercial driver's license if an applicant meets the conditions in subsection (2) and is:

(a) a veteran of the armed forces of the United States who was honorably discharged;

(b) currently serving in the armed forces of the United States;

(c) serving full-time in a reserve component, as defined in 37-1-138; or

(d) honorably discharged from the reserve component after serving full-time in the reserve component.

(2) An applicant shall:

(a) certify that, during the 2-year period immediately prior to application, the applicant:

(i) did not have more than one license except for a military license;

(ii) did not have a license suspended, revoked, or canceled;

(iii) was not convicted of a disqualifying offense as provided in 49 CFR 383.51(b);

(iv) did not have more than one conviction for a serious traffic violation as provided in 49 CFR 383.51(c); and

(v) did not have any conviction for a violation of military, state, or local law relating to motor vehicle traffic control other than a parking violation arising in connection with any traffic accident and has no record of an accident in which the applicant was at fault;

(b) provide evidence and certify that:

(i) *the applicant has passed a knowledge test for a commercial motor vehicle for the class of motor vehicle for which the applicant is seeking a commercial driver's license given by the military;*

(ii) *the military position in which the applicant served required regular operation over at least a 2-year period immediately prior to either discharge or application, as applicable, of a commercial motor vehicle representative of the class of motor vehicle for which the applicant is seeking a commercial driver's license; and*

(iii) *the applicant was exempted under 49 CFR 383.3(c) from the requirements of this part when operating a commercial motor vehicle in the military.*

(3) The department shall adopt rules necessary for the administration of this section."

Section 5. Section 61-6-131, MCA, is amended to read:

"61-6-131. When proof of financial responsibility required.

(1) Whenever the department under any of the laws of this state revokes the license or privilege to drive of any person, the license must remain revoked and may not be renewed and a license may not be issued to the person until

~~permitted under the motor vehicle laws of this state and not then unless and until the person maintains proof of financial responsibility restored until the person is otherwise eligible and files a certificate of insurance as provided in 61-6-133 or 61-6-134.~~

~~(2) If a person is not licensed, but by the final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for any offense requiring the revocation of a license, a license may not be issued to the person until the person gives and maintains proof of financial responsibility.~~

~~(3) Whenever the department revokes a nonresident's operating privilege by reason of a conviction or forfeiture of bail, the privilege remains revoked unless the person has previously given or immediately gives and maintains proof of financial responsibility.~~

~~(2) The department may not issue a probationary license to a person whose driver's license or privilege to drive is revoked unless the department receives proof of financial responsibility by a certificate of insurance as provided in 61-6-133 or 61-6-134 and the person is otherwise eligible for a probationary license."~~

Section 6. Section 61-6-157, MCA, is amended to read:

"61-6-157. Creation of online motor vehicle liability insurance verification system. (1) The department, in cooperation with the commissioner of insurance, shall establish an accessible common carrier-based motor vehicle insurance verification system to verify the compliance of a motor vehicle owner or operator with motor vehicle liability policy requirements under 61-6-103, 61-6-301, and 61-6-302 and facilitate or monitor proof of financial responsibility filings under 61-6-133 and 61-6-134.

(2) The department may contract with a private vendor or vendors to establish and maintain the system.

(3) The system must:

(a) send requests to insurers for verification of motor vehicle liability insurance using electronic services established by the insurers, through the internet, world wide web, or a similar proprietary or common carrier electronic system in compliance with the specifications and standards of the insurance industry committee on motor vehicle administration and other applicable industry standards;

(b) include appropriate provisions to secure its data against unauthorized access and to maintain a record of all requests and responses;

(c) be accessible, without fee, to authorized personnel of the department, the courts, law enforcement personnel, county treasurers, and authorized agents under the provisions of 61-3-116;

(d) interface, wherever possible, with existing department and law enforcement systems;

(e) receive insurance data file transfers from insurers under specifications and standards set forth in subsection (3)(a) to identify vehicles that are not covered by an insurance policy;

(f) provide a means by which low-volume insurers that are unable to deploy an online interface with the system can report insurance policy data to the department or its designee for inclusion in the system;

(g) provide a means to track separately or distinguish motor vehicles that are subject to a certificate of self-insurance under 61-6-143, ~~a surety or indemnity bond under 61-6-137 or 61-6-301, or a deposit of cash or securities under 61-6-138, a surety or indemnity bond under 61-6-137, or a deposit of cash or securities under 61-6-138;~~

(h) be available 24 hours a day, 7 days a week, subject to reasonable allowances for scheduled maintenance or temporary system failures, to verify the insurance status of any vehicle in a manner prescribed by the department; and

(i) be used only for information-gathering and educational purposes until the completion of an appropriate testing period of not less than 6 months.

(4) The provisions of Title 2, chapter 6, parts 10 and 11, do not apply to the information contained in the verification system.

(5) Every insurer shall cooperate with the department in establishing and maintaining the system and shall provide access to motor vehicle liability policy status information to verify liability coverage:

(a) for a vehicle insured by that company that is registered in this state; and

(b) if available, for a vehicle that is insured by that company or that is operated in this state and that is the subject of an accident investigation regardless of where the vehicle is registered.”

Section 7. Section 61-6-301, MCA, is amended to read:

“61-6-301. Required motor vehicle insurance – family member exclusion. (1) (a) Except as provided in subsection (1)(b), an owner of a motor vehicle that is registered and operated in Montana by the owner or with the owner’s permission shall continuously provide insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by maintenance or use of a motor vehicle in an amount not less than that required by 61-6-103, or a certificate of self-insurance issued in accordance with 61-6-143.

(b) Notwithstanding the mandatory motor vehicle liability insurance protection provided for in subsection (1)(a), nothing in this part may be construed to prohibit the exclusion from insurance coverage of a named family member in a motor vehicle liability insurance policy.

~~(2) A motor vehicle owner who prefers to post an indemnity bond with the department in lieu of obtaining a policy of liability insurance may do so. The bond must guarantee that any loss resulting from liability imposed by law for bodily injury, death, or damage to property suffered by any person caused by accident and arising out of the operation, maintenance, and use of the motor vehicle sought to be registered must be paid within 30 days after final judgment is entered establishing the liability. The indemnity bond must guarantee payment in the amount provided for insurance under subsection (1).~~

~~(3) Any bond given in connection with this section is a continuing instrument and must cover the period for which the motor vehicle is to be registered and operated. The bond must be on a form approved by the commissioner of insurance and must be with a surety company authorized to do business in the state.~~

~~(4)(2) It is unlawful for a person to operate a motor vehicle upon ways of this state open to the public as defined in 61-8-101 without a valid policy of liability insurance in effect in an amount not less than that required by 61-6-103 unless the person has been issued a certificate of self-insurance under 61-6-143, has posted an indemnity bond with the department as provided in this section, or is operating a vehicle exempt under 61-6-303.”~~

Section 8. Section 61-6-302, MCA, is amended to read:

“61-6-302. Proof of compliance. (1) The registration receipt required by 61-3-322 must contain a statement that unless the vehicle is eligible for an exemption under 61-6-303, it is unlawful to operate the vehicle without a valid motor vehicle liability insurance policy, or a certificate of self-insurance, ~~or a posted indemnity bond~~; as required by 61-6-301.

(2) (a) Each owner or operator of a motor vehicle shall carry in the motor vehicle as proof of compliance with 61-6-301 either:

(i) an insurance card approved by the department but issued by the insurance carrier to the motor vehicle owner; or

(ii) an electronic device on which an electronic document issued by the insurance carrier showing proof of compliance with 61-6-301 may be displayed.

(b) If the insurance card or electronic document is issued under a commercial automobile insurance policy or a self-insured fleet, the insurance card or electronic document must indicate the status as “commercially insured” or “fleet”.

(c) A motor vehicle owner or operator shall exhibit the insurance card or display the electronic document on demand of a justice of the peace, a city or municipal judge, a peace officer, a highway patrol officer, or a field deputy or inspector of the department.

(d) A person commits an offense under this subsection if the person fails to carry in the motor vehicle the insurance card or an electronic device on which the electronic document may be displayed or fails to exhibit the insurance card or display the electronic document on demand of a person specified in subsection (2)(c).

(e) For the purposes of this subsection (2), “insurance card” includes an electronic representation or equivalent of a documentary insurance card that the insurer delivers by electronic means, as defined in 33-15-601, to satisfy the requirements of this subsection (2).

(3) In lieu of charging an operator who is not the owner of a vehicle with violating subsection (2), the officer may issue a complaint and notice to appear charging the owner with a violation of 61-6-301 and serve the complaint and notice to appear on the owner of the vehicle:

(a) personally; or

(b) by certified mail, return receipt requested, at the address for the owner listed on the registration receipt for the vehicle or, following query through available law enforcement systems, at the address maintained for the vehicle's owner by the jurisdiction in which the vehicle is titled and registered, or both.

(4) An owner or operator charged with violating subsection (2) may not be convicted if:

(a) the arresting or issuing officer or another person authorized to access information from the online motor vehicle liability insurance verification system under 61-6-309 submits to the system, when implemented, a request that provides proof of insurance valid at the time the alleged violation took place; or

(b) when the system under 61-6-157 is not available, the person produces in court or the office of the arresting or issuing officer proof of insurance valid at the time the alleged violation took place.”

Section 9. Section 61-6-303, MCA, is amended to read:

“61-6-303. Exempt vehicles. The following vehicles and their drivers are exempt from the provisions of 61-6-301:

(1) a vehicle owned by the United States government or any state or political subdivision;

~~(2) a vehicle for which cash, securities, or a bond has been deposited or filed with the department upon terms and conditions providing the same benefits available under a required motor vehicle liability insurance policy;~~

~~(3) a vehicle owned by a self-insurer certified as provided in 61-6-143;~~

~~(4)~~(2) an implement of husbandry or special mobile equipment that is only incidentally operated on a highway or property open to use by the public;

(5)(3) a vehicle operated upon a highway only for the purpose of crossing the highway from one property to another;

(6)(4) a commercial vehicle registered or proportionally registered in this and any other jurisdiction if the vehicle is covered by a motor vehicle liability insurance policy complying with the laws of another jurisdiction in which it is registered;

(7)(5) a motorcycle or quadricycle;

(8)(6) a vehicle moved solely by human or animal power;

(9)(7) a vehicle owned by a nonresident if it is currently registered in the owner's resident jurisdiction and the owner is in compliance with the motor vehicle liability insurance requirements, if any, of that jurisdiction."

Section 10. Section 61-11-102, MCA, is amended to read:

"61-11-102. Records to be kept by department. (1) Except as provided in subsection (8), the department shall create and maintain a central database of electronic files that includes an individual Montana driving record for each person:

(a) who has been issued a Montana driver's license;

(b) who does not have a driver's license from, or active driving record in, another jurisdiction and for whom the department receives a report of conviction of a traffic violation or an offense requiring suspension or revocation of the person's driver's license; and

(c) whose driver's license or driving privileges have been suspended, revoked, canceled, or otherwise withdrawn by the department.

(2) An individual Montana driving record maintained under this section must include:

(a) personal information obtained from the application for a driver's license or a report of conviction;

(b) the person's driver's license number, license type, status, endorsements, restrictions, issue and expiration dates, and any suspensions, revocations, disqualifications, or cancellations that have been imposed against the person;

(c) all convictions reported to the department for the person; and

(d) traffic accidents in which the person was involved, except that a record of involvement in a traffic accident may not be entered on a licensee's record unless the licensee was convicted, as defined in 61-11-203, for an act causally related to the accident.

(3) (a) The department shall create and maintain a CDLIS driver record for each person who has been issued a Montana commercial driver's license or for whom a record of conviction, disqualification, or other licensure action has been taken for violations of any state or local law relating to motor vehicle traffic regulation, other than a parking violation, committed while operating a commercial motor vehicle.

(b) A CDLIS driver record maintained by the department must meet the requirements of 49 CFR 384.225.

(c) If the department receives notice that a person has been disqualified by the federal motor carrier safety administration ~~as an imminent hazard under 49 CFR 383.52~~, the department shall record the ~~disqualification~~ *suspension or revocation* on the CDLIS driver record.

(4) The department shall retain records created under this section for a period of time that meets or exceeds the standards established under 49 CFR, part 384.

(5) The department is further authorized, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, to forward, by electronic or other

means, a report of the conviction to the motor vehicle administrator in the state in which the person is a resident or licensed.

(6) The department may place on a computer storage device the information contained on original records or reproductions of original records made pursuant to this section. Signatures on records are not required to be placed on a computer storage device.

(7) (a) Except as provided in subsection (7)(b), a reproduction of the information placed on a computer storage device is an original of the record for all purposes and is admissible in evidence without further foundation in all courts or administrative agencies when the department certifies the record.

(b) An order, record, or paper generated from the department's central database of electronic files of individual Montana driving records may be certified electronically by the generating computer. The certification must be a certification of the order, record, or paper as it appeared on a specific date.

(c) A court, an office of a clerk of court, or an attorney licensed to practice law in this state may receive and use a computer-generated individual Montana driving record as evidence without further foundation when:

(i) the individual Montana driving record is electronically transmitted from the department's central database of electronic individual Montana driving records to a department-authorized terminal device maintained by the court, the office of the clerk of court, or the attorney; and

(ii) the judge, an officer of the court, or the attorney certifies that the record was not altered in any way.

(8) (a) Except as provided in subsection (4), the department may destroy any individual Montana driving record maintained under this section if there are no suspensions or revocations on the record and there has been no renewed credential in the immediately preceding 16 years.

(b) The department shall adopt rules governing the destruction of records."

Section 11. Section 61-11-203, MCA, is amended to read:

"61-11-203. Definitions – habitual traffic offenders – point schedule.

(1) As used in this part, the following definitions apply:

(a) "Conviction" has the meaning provided in 61-5-213 *resulting from a violation of traffic regulations on highways in this state or a traffic statute or traffic regulation in another jurisdiction.*

(b) "Habitual traffic offender" means any person who within a 3-year period accumulates 30 or more conviction points according to the schedule specified in subsection (2).

(c) "License" means any type of license or permit to operate a motor vehicle.

(d) "Moving violation" means a violation of a traffic regulation of this state or another jurisdiction by a person while operating a motor vehicle or in actual physical control of a motor vehicle upon ~~a highway~~ *a highway*.

(e) "Traffic regulation" includes any provision governing motor vehicle operation, equipment, safety, or driver licensing. A traffic regulation does not include provisions governing vehicle registration or local parking.

(2) Subject to subsection (3), ~~the point schedule used when the department receives a report of conviction, the department shall assign points based on the point schedule~~ to determine whether an individual is a habitual traffic offender ~~is~~, as follows:

(a) deliberate homicide resulting from the operation of a motor vehicle, 15 points;

(b) mitigated deliberate homicide, negligent homicide resulting from operation of a motor vehicle, or negligent vehicular assault, 12 points;

(c) any offense punishable as a felony under the motor vehicle laws of Montana or any felony in the commission of which a motor vehicle is used, 12 points;

(d) driving while under the influence of intoxicating liquor or narcotics or drugs of any kind ~~or operation of a motor vehicle by a person with alcohol concentration of 0.08 or more~~, 10 points;

(e) operating a motor vehicle while the license to do so has been suspended or revoked, 6 points;

(f) failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any person to stop at the scene of the accident and give the required information and assistance, ~~as described in 61-7-105~~, 8 points;

(g) ~~willful~~ *willful* failure of the driver involved in an accident resulting in property damage of ~~\$250~~ *\$1,000* to stop at the scene of the accident and give the required information or failure to otherwise report an accident in violation of ~~the law Title 61, chapter 7~~, 4 points;

(h) reckless driving, 5 points;

(i) illegal drag racing or engaging in a speed contest in violation of the law, 5 points;

(j) any of the mandatory motor vehicle liability protection offenses ~~under 61-6-301 and 61-6-302~~, 5 points;

(k) operating a motor vehicle without a license to do so, 2 points. However, this subsection (2)(k) does not apply to operating a motor vehicle within a period of 180 days from the date the license expired.

(l) speeding, except as provided in 61-8-725(2)(a), 3 points;

(m) all other moving violations, 2 points.

(3) ~~There may not be multiple application of cumulative points when two or more charges are filed involving a single occurrence.~~ If there are two or more convictions involving a single occurrence, only the number of points for the specific conviction carrying the highest points is chargeable against that defendant."

Section 12. Section 61-11-508, MCA, is amended to read:

"61-11-508. Permitted disclosure of personal information – specific uses. (1) Upon application, proof of the identity of the person requesting a record, and payment of fees required in 61-11-510, the department may disclose personal information, including highly restricted personal information, from a motor vehicle record to:

~~(1)(a)~~ (a) the person who is the subject of the motor vehicle record; or

~~(2)(b)~~ (b) a person who represents that the use of the information will be strictly limited to one or more of the following:

~~(a)(i)~~ (i) a federal, state, or local government agency, including a court or a law enforcement agency, and any individual acting on behalf of the agency in carrying out its functions, including representatives of the news media for a legitimate law enforcement purpose, as determined by the department; or

~~(b)(ii)~~ (ii) a person, organization, or entity, upon the express consent of the person to whom the information pertains.

(2) *The department shall not disclose a social security number unless:*

(a) *for the purposes of subtitle VI of Title 49 of the U.S.C.;*

(b) *to the department of public health and human services for use in administering Title IV-D of the Social Security Act; or*

(c) *the release of the social security number is specifically authorized by law."*

Section 13. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 61, chapter 8, part 8, and the provisions of Title 61, chapter 8, part 8, apply to [section 1].

Section 14. Effective dates. (1) Except as provided in subsections (2) and (3), [this act] is effective on passage and approval.

(2) [Section 3(4)(d)] is effective October 1, 2020.

(3) [Section 3(9)] is effective January 1, 2020.

Approved May 10, 2019

CHAPTER NO. 446

[HB 527]

AN ACT GENERALLY REVISING LAWS RELATED TO AFFORDABLE HOUSING TAX EXEMPTIONS; PROVIDING THAT QUALIFIED PROPERTY MAY BE OWNED BY CERTAIN SINGLE-MEMBER LIMITED LIABILITY COMPANIES; REMOVING LANGUAGE THAT RESTATES FEDERAL REGULATIONS TO ENSURE FUTURE COMPLIANCE; PROVIDING ADDITIONAL CLARIFICATION OF QUALIFIED PROPERTIES AND OWNERS; AMENDING SECTION 15-6-221, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-6-221, MCA, is amended to read:

“15-6-221. Exemption for rental housing providing affordable housing to lower-income tenants. (1) That portion of residential rental property that is dedicated to providing affordable housing for lower-income persons is exempt from property taxation in any year that:

(a) the property is owned and operated by an entity, including but not limited to a limited partnership, limited liability ~~corporation~~ *company*, or limited liability partnership in which a general partner *or limited liability company member* is a nonprofit corporation exempt from taxation under ~~section~~ 26 U.S.C. 501(c)(3), as amended, and incorporated ~~and or~~ admitted under a certificate of authority under the Montana Nonprofit Corporation Act as provided in Title 35, chapter 2, or is a housing authority as defined in 7-15-4402 and the nonprofit general partner *or limited liability company member* actively participates in accordance with the definition found in 26 U.S.C. 469(i). Section 26 U.S.C. 469(i) is applicable without reference to section 26 U.S.C. 469(i)(6).

(b) the board of housing, established in 2-15-1814, has allocated low-income housing tax credits to the owner under 26 U.S.C. 42, ~~which requires that;~~

(i) ~~at least 20% of the residential units in the property are rent-restricted, as defined in 26 U.S.C. 42, and rented to tenants whose household incomes do not exceed 50% of the median family income, adjusted for family size, for the county in which the property is located; or~~

(ii) ~~at least 40% of the residential units in the property are rent-restricted, as defined in 26 U.S.C. 42, and rented to persons whose household incomes do not exceed 60% of the median income, adjusted for family size, for the county in which the property is located;~~

(c) a deed restriction or other legally binding instrument restricts the property's usage and provides that the units designated for use by lower-income households must be made available to or occupied by lower-income households for the period required to qualify for low-income housing tax credits at rents that do not exceed those prescribed by the terms of the deed restriction or other legally binding instruments;

(d) the property meets a public purpose in providing housing to an underserved population ~~and provides a minimum of 50% of the units in the~~

property to tenants at 50% of the median family income for the area, with rents restricted to a maximum of 30% of 50% of median family income, as calculated under 26 U.S.C. 42; and

(e) the owner's partnership or operating agreement or accompanying document provides that at the end of the compliance period, as that term is defined in 26 U.S.C. 42, the ownership of the property may be transferred to the nonprofit corporation or housing authority general partner or limited liability company member as provided for in 26 U.S.C. 42(i)(7).

(2) Prior to applying to the department for the tax exemption provided for in this section, the allocation of low-income housing tax credits to the owner, as provided in subsection (1)(b), the unit of local government where the proposed project is to be located shall give due notice, as defined in 76-15-103, and hold a public hearing to solicit comment on whether the proposed qualifying low-income rental housing property meets a community housing need. A record of the public hearing must be forwarded to the board of housing for consideration in granting the allocation of tax credits.

(3) (a) A party satisfies the nonprofit partner or limited liability company member requirement of subsection (1)(a) if it is a single-member limited liability company that is fully owned and controlled by a nonprofit corporation described in subsection (1)(a).

(b) A property must be considered to be owned and operated by an entity as described in subsection (1)(a) if it is occupied by the entity as a lessee under a long-term lease exceeding 49 years in length under which most benefits and burdens of ownership during the lease term have shifted to the lessee, including the obligation to pay property taxes.

(c) If a residential rental property is an integral part of a combination of two properties that when combined make up a single commonly operated residential rental property, the qualifications for both properties under subsection (1)(b) must be measured collectively with reference to the units located on both properties if:

(i) the beneficial ownership of the entities described in subsection (1)(a) for both properties are substantially identical; and

(ii) all other requirements of both parties under this section are met.

(3) For purposes of this section the following definitions apply:

(a) "Median family income" means the household income, adjusted for family size, determined annually by the United States department of housing and urban development, or its successor agency, to be the median family income for persons residing within each county of the state.

(b) A residential unit is "rent-restricted" if it satisfies the criteria of 26 U.S.C. 42(g)(2)."

Section 2. Applicability. [This act] applies to tax years beginning after December 31, 2019.

Approved May 10, 2019

CHAPTER NO. 447

[HB 535]

AN ACT CLARIFYING NOTICE REQUIREMENTS FOR THE COMMENCEMENT OF ACQUISITION OF RIGHT-OF-WAY UNDER THE MAJOR FACILITY SITING ACT; AMENDING SECTIONS 75-20-104, 75-20-201, 75-20-207, 75-20-208, 75-20-211, 75-20-301, 75-20-303, 75-20-304, AND 75-20-1202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 75-20-104, MCA, is amended to read:

“75-20-104. Definitions. In this chapter, unless the context requires otherwise, the following definitions apply:

(1) “Addition thereto” means the installation of new machinery and equipment that would significantly change the conditions under which the facility is operated.

(2) “Application” means an application for a certificate submitted in accordance with this chapter and the rules adopted under this chapter.

(3) (a) “Associated facilities” includes but is not limited to transportation links of any kind, aqueducts, diversion dams, pipelines, storage ponds, reservoirs, and any other device or equipment associated with the delivery of the energy form or product produced by a facility.

(b) The term does not include a transmission substation, a switchyard, voltage support, or other control equipment or a facility or a natural gas or crude oil gathering line 25 inches or less in inside diameter.

(4) “Board” means the board of environmental review provided for in 2-15-3502.

(5) “Certificate” means the certificate of compliance issued by the department under this chapter that is required for the construction or operation of a facility.

(6) “Commence to construct” means:

(a) any clearing of land, excavation, construction, or other action that would affect the environment of the site or route of a facility but does not mean changes needed for temporary use of sites or routes for nonutility purposes or uses in securing geological data, including necessary borings to ascertain foundation conditions;

(b) the fracturing of underground formations by any means if the activity is related to the possible future development of a gasification facility or a facility employing geothermal resources but does not include the gathering of geological data by boring of test holes or other underground exploration, investigation, or experimentation;

(c) the commencement of eminent domain proceedings under Title 70, chapter 30, for land or rights-of-way upon or over which a facility may be constructed;

(d) the relocation or upgrading of an existing facility defined by subsection ~~(8)(a) or (8)(b)~~ (9)(a) or (9)(b), including upgrading to a design capacity covered by subsection ~~(8)(a)~~ (9)(a), except that the term does not include normal maintenance or repair of an existing facility.

(7) (a) “*Commencement of acquisition of right-of-way*” means the actual, defined legal transfer of property.

(b) *The term does not mean preliminary discussions, option agreements that are not within 60 days of commencement of acquisition, letters of intent, or other documents that do not conclusively result in the legal transfer of property.*

~~(7)(8)~~ “Department” means the department of environmental quality provided for in 2-15-3501.

~~(8)(9)~~ “Facility” means, subject to 75-20-1202:

(a) each electric transmission line and associated facilities of a design capacity of more than 69 kilovolts, except that the term:

(i) does not include an electric transmission line and associated facilities of a design capacity of 230 kilovolts or less and 10 miles or less in length;

(ii) does not include an electric transmission line with a design capacity of more than 69 kilovolts for which the person planning to construct the line has obtained right-of-way agreements or options for a right-of-way from more than

75% of the owners who collectively own more than 75% of the property along the centerline;

(iii) does not include electric transmission lines that are collectively less than 150 miles in length and are required under state or federal regulations and laws, with respect to reliability of service, for an electrical generation facility, as defined in 15-24-3001(4), or a wind generation facility, biomass generation facility, or energy storage facility, as defined in 15-6-157, to interconnect to a regional transmission grid or secure firm transmission service to use the grid for which the person planning to construct the line or lines has obtained right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively own more than 75% of the property along the centerline or centerlines;

(iv) does not include an upgrade to an existing transmission line of a design capacity of 50 kilovolts or more to increase that line's capacity, including construction outside the existing easement or right-of-way. Except for a newly acquired easement or right-of-way necessary to comply with electromagnetic field standards, a newly acquired easement or right-of-way outside the existing easement or right-of-way as described in this subsection ~~(8)(a)(iv)~~ *(9)(a)(iv)* may not exceed a total of 10 miles in length or be more than 10% of the existing transmission right-of-way, whichever is greater, and the purpose of the easement must be to avoid sensitive areas or inhabited areas or conform to state or federal safety, reliability, and operational standards designed to safeguard the transmission network and protect electrical workers and the public.

(v) does not include a transmission substation, a switchyard, voltage support, or other control equipment;

(vi) does not include an energy storage facility, as defined in 15-6-157;

(b) (i) each pipeline, whether partially or wholly within the state, greater than 25 inches in inside diameter and 50 miles in length, and associated facilities, except that the term does not include:

(A) a pipeline within the boundaries of the state that is used exclusively for the irrigation of agricultural crops or for drinking water; or

(B) a pipeline greater than 25 inches in inside diameter and 50 miles in length for which the person planning to construct the pipeline has obtained right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively own more than 75% of the property along the centerline;

(ii) each pipeline, whether partially or wholly within the state, greater than 17 inches in inside diameter and 30 miles in length, and associated facilities used to transport coal suspended in water;

(c) any use of geothermal resources, including the use of underground space in existence or to be created, for the creation, use, or conversion of energy, designed for or capable of producing geothermally derived power equivalent to 50 megawatts or more or any addition thereto, except pollution control facilities approved by the department and added to an existing plant, except that the term does not include a compressed air energy storage facility, as defined in 15-6-157; or

(d) for the purposes of 75-20-204 only, a plant, unit, or other facility capable of generating 50 megawatts of hydroelectric power or more or any addition thereto.

~~(9)~~*(10)* "Person" means any individual, group, firm, partnership, corporation, limited liability company, cooperative, association, government subdivision, government agency, local government, or other organization or entity.

(10)(11) "Sensitive areas" means government-designated areas that have been recognized for their importance to Montana's wildlife, wilderness, culture, and historic heritage, including but not limited to national wildlife refuges, state wildlife management areas, federal areas of critical environmental concern, state parks and historic sites, designated wilderness areas, wilderness study areas, designated wild and scenic rivers, or national parks, monuments, or historic sites.

(11)(12) "Transmission substation" means any structure, device, or equipment assemblage, commonly located and designed for voltage regulation, circuit protection, or switching necessary for the construction or operation of a proposed transmission line.

(12)(13) "Transmission reliability agencies" means the federal energy regulatory commission, the western electricity coordinating council, the national electric reliability council, and the midwest reliability organization.

(13)(14) "Upgrade" means to increase the electrical carrying capacity of a transmission line by actions including but not limited to:

- (a) installing larger conductors;
- (b) replacing insulators;
- (c) replacing pole or tower structures;
- (d) changing structure spacing, design, or guying; or
- (e) installing additional circuits.

(14)(15) "Utility" means any person engaged in any aspect of the production, storage, sale, delivery, or furnishing of heat, electricity, gas, hydrocarbon products, or energy in any form for ultimate public use."

Section 2. Section 75-20-201, MCA, is amended to read:

"75-20-201. Certificate required – operation in conformance – certificate for nuclear facility – applicability to federal facilities.

(1) Except for a facility under diligent onsite physical construction or in operation on January 1, 1973, a person may not commence to construct a facility in the state without first applying for and obtaining a certificate of compliance issued with respect to the facility by the department.

(2) A facility with respect to which a certificate is issued may not be constructed, operated, or maintained except in conformity with the certificate and any terms, conditions, and modifications contained within the certification.

(3) A certificate may only be issued pursuant to this chapter.

(4) If the department decides to issue a certificate for a nuclear facility, it shall report the recommendation to the applicant and may not issue the certificate until the recommendation is approved by a majority of the voters in a statewide election called by initiative or referendum according to the laws of this state.

(5) A person that proposes to construct an energy-related project that is not defined as a facility pursuant to ~~75-20-104(8)~~ 75-20-104(9) may petition the department to review the energy-related project under the provisions of this chapter. The construction or installation of an energy storage facility, as defined in 15-6-157, is not considered an energy-related project under the provisions of this chapter. A certificate for the construction or installation of an energy storage facility is not required under this chapter.

(6) This chapter applies, to the fullest extent allowed by federal law, to all federal facilities and to all facilities over which an agency of the federal government has jurisdiction.

(7) All judicial challenges of certificates for projects with a project cost, as determined by the court, of more than \$1 million must have precedence over any civil cause of a different nature pending in that court. If the court determines that the challenge was without merit or was for an improper

purpose, such as to harass, to cause unnecessary delay, or to impose needless or increased cost in litigation, the court may award attorney fees and costs incurred in defending the action.”

Section 3. Section 75-20-207, MCA, is amended to read:

“75-20-207. Notice requirement for certain electric transmission lines. Whenever a person plans to construct an electric transmission line or associated facilities under the provisions of ~~75-20-104(8)(a)(ii)~~ *75-20-104(9)(a)(ii)*, it must provide public notice to persons residing in the area in which any portion of the electric transmission facility may be located and to the department. This notice must be made no less than 60 days prior to the commencement of acquisition of right-of-way *as defined in 75-20-104* by publication of a summary describing the transmission facility and the proposed location of the facility in those newspapers that will substantially inform those persons of the construction and by mailing a summary to the department. The notice must inform the property owners of their rights under this chapter concerning the location of the facility and that more information concerning their rights may be obtained from the department.”

Section 4. Section 75-20-208, MCA, is amended to read:

“75-20-208. Certain electric transmission lines – verification of requirements. (1) Prior to constructing a transmission line under ~~75-20-104(8)(a)(ii)~~ *75-20-104(9)(a)(ii)*, the person planning to construct the line shall provide to the department within 36 months of the date of the public notice provided under 75-20-207, unless extended by the department for good cause:

(a) copies of the right-of-way agreements or options for a right-of-way containing sufficient information to establish landowner consent to construct the line; and

(b) sufficient information for the department to verify that the requirements of ~~75-20-104(8)(a)(ii)~~ *75-20-104(9)(a)(ii)* are satisfied.

(2) The provisions of ~~75-20-104(8)(a)(ii)~~ *75-20-104(9)(a)(ii)* do not apply to any facility for which public notice under 75-20-207 has been given but for which the requirements of subsection (1) of this section have not been complied with.”

Section 5. Section 75-20-211, MCA, is amended to read:

“75-20-211. Application – filing and contents – proof of service and notice. (1) (a) An applicant shall file with the department an application for a certificate under this chapter and for the permits required under the laws administered by the department in the form that is required under applicable rules, containing the following information:

(i) a description of the proposed location and of the facility to be built;

(ii) a summary of any preexisting studies that have been made of the impact of the facility;

(iii) for facilities defined in ~~75-20-104(8)(a)~~ *75-20-104(9)(a)* and ~~(8)(b)~~ *(9)(b)*, a statement explaining the need for the facility, a description of reasonable alternate locations for the facility, a general description of the comparative merits and detriments of each location submitted, and a statement of the reasons why the proposed location is best suited for the facility;

(iv) (A) for facilities as defined in ~~75-20-104(8)(a)~~ *75-20-104(9)(a)* and ~~(8)(b)~~ *(9)(b)*, baseline data for the primary and reasonable alternate locations; or

(B) for facilities as defined in ~~75-20-104(8)(c)~~ *75-20-104(9)(c)*, baseline data for the proposed location and, at the applicant’s option, any alternative locations acceptable to the applicant for siting the facility;

(v) at the applicant’s option, an environmental study plan to satisfy the requirements of this chapter; and

(vi) other information that the applicant considers relevant or that the department by order or rule may require.

(b) If a copy or copies of the studies referred to in subsection (1)(a)(ii) are filed with the department, the copy or copies must be available for public inspection.

(2) An application may consist of an application for two or more facilities in combination that are physically and directly attached to each other and are operationally a single operating entity.

(3) The copy of the application must be accompanied by a notice specifying the date on or about which the application is to be filed.

(4) An application must also be accompanied by proof that public notice of the application was given to persons residing in the county in which any portion of the proposed facility is proposed or is alternatively proposed to be located, by publication of a summary of the application in those newspapers that will substantially inform those persons of the application."

Section 6. Section 75-20-301, MCA, is amended to read:

"75-20-301. Decision of department – findings necessary for certification. (1) Within 30 days after issuance of the report pursuant to 75-20-216 for facilities defined in ~~75-20-104(8)(a) and (8)(b)~~ 75-20-104(9)(a) and (9)(b), the department shall approve a facility as proposed or as modified or an alternative to a proposed facility if the department finds and determines:

(a) the basis of the need for the facility;

(b) the nature of the probable environmental impact;

(c) that the facility minimizes adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives;

(d) in the case of an electric, gas, or liquid transmission line or aqueduct:

(i) what part, if any, of the line or aqueduct will be located underground;

(ii) that the facility is consistent with regional plans for expansion of the appropriate grid of the utility systems serving the state and interconnected utility systems; and

(iii) that the facility will serve the interests of utility system economy and reliability;

(e) that the location of the facility as proposed conforms to applicable state and local laws and regulations, except that the department may refuse to apply any local law or regulation if it finds that, as applied to the proposed facility, the law or regulation is unreasonably restrictive in view of the existing technology, of factors of cost or economics, or of the needs of consumers, whether located inside or outside the directly affected government subdivisions;

(f) that the facility will serve the public interest, convenience, and necessity;

(g) that the department or board has issued any necessary air or water quality decision, opinion, order, certification, or permit as required by 75-20-216(3); and

(h) that the use of public lands or federally designated energy corridors for location of a facility defined in ~~75-20-104(8)(a) or (8)(b)~~ 75-20-104(9)(a) or (9)(b) was evaluated and public lands or federally designated energy corridors for that facility were selected whenever their use was compatible with:

(i) the requirements of subsections (1)(a) through (1)(g); and

(ii) transmission line reliability criteria established by transmission reliability agencies for a facility defined in ~~75-20-104(8)(a)~~ 75-20-104(9)(a).

(2) In determining that the facility will serve the public interest, convenience, and necessity under subsection (1)(f), the department shall consider:

(a) the items listed in subsections (1)(a) and (1)(b);

(b) the benefits to the applicant and the state resulting from the proposed facility;

(c) the effects of the economic activity resulting from the proposed facility;

(d) the effects of the proposed facility on the public health, welfare, and safety;

(e) any other factors that it considers relevant.

(3) Within 30 days after issuance of the report pursuant to 75-20-216 for a facility defined in ~~75-20-104(8)(c)~~ 75-20-104(9)(c), the department shall approve a facility as proposed or as modified or an alternative to a proposed facility if the department finds and determines:

(a) that the facility or alternative incorporates all reasonable, cost-effective mitigation of significant environmental impacts; and

(b) that unmitigated impacts, including those that cannot be reasonably quantified or valued in monetary terms, will not result in:

(i) a violation of a law or standard that protects the environment; or

(ii) a violation of a law or standard that protects the public health and safety.

(4) For facilities defined in 75-20-104, if the department cannot make the findings required in this section, it shall deny the certificate."

Section 7. Section 75-20-303, MCA, is amended to read:

"75-20-303. Opinion issued with decision – contents. (1) In rendering a decision on an application for a certificate, the department shall issue an opinion stating its reasons for the action taken.

(2) If the department has found that any regional or local law or regulation that would be otherwise applicable is unreasonably restrictive, it shall state in its opinion the reasons that it is unreasonably restrictive.

(3) A certificate issued by the department must include the following:

(a) an environmental evaluation statement related to the facility being certified. The statement must include but is not limited to analysis of the following information:

(i) the environmental impact of the proposed facility; and

(ii) any adverse environmental effects that cannot be avoided by issuance of the certificate;

(b) a plan for monitoring environmental effects of the proposed facility;

(c) a plan for monitoring the certified facility site between the time of certification and completion of construction;

(d) a time limit as provided in subsection (4);

(e) a statement confirming that notice was provided pursuant to subsection (5); and

(f) a statement signed by the applicant showing agreement to comply with the requirements of this chapter and the conditions of the certificate.

(4) (a) The department shall issue as part of the certificate the following time limits:

(i) For a facility as defined in ~~75-20-104(8)(a)~~ 75-20-104(9)(a) that is more than 30 miles in length and for a facility defined in ~~75-20-104(8)(b)~~ 75-20-104(9)(b), construction must be completed within 10 years.

(ii) For a facility as defined in ~~75-20-104(8)(a)~~ 75-20-104(9)(a) that is 30 miles or less in length, construction must be completed within 5 years.

(iii) For a facility as defined in ~~75-20-104(8)(c)~~ 75-20-104(9)(c), construction must begin within 6 years and continue with due diligence in accordance with preliminary construction plans established in the certificate.

(b) Unless extended, a certificate lapses and is void if the facility is not constructed or if construction of the facility is not commenced within the time limits provided in this section.

(c) The time limit may be extended for a reasonable period upon a showing by the applicant to the department that a good faith effort is being undertaken to complete construction under subsections (4)(a)(i) and (4)(a)(ii). Under this subsection, a good faith effort includes the process of acquiring any necessary state or federal permit or certificate for the facility and the process of judicial review of a permit or certificate.

(d) Construction may begin immediately upon issuance of a certificate unless the department finds that there is substantial and convincing evidence that a delay in the commencement of construction is necessary and should be established for a particular facility.

(5) (a) (i) Except as provided in subsection (5)(a)(ii), for a facility defined in ~~75-20-104(8)(a) and (8)(b)~~ *75-20-104(9)(a) and (9)(b)*, the environmental review conducted pursuant to Title 75, chapter 1, parts 1 through 3, prepared by the department must designate a 500-foot-wide facility siting corridor along the facility route.

(ii) Prior to preparation of the environmental review or the draft environmental impact statement, the department shall consult the applicant and, in a manner determined by rule, landowners and identify areas in which a corridor considered in the environmental review document should be more or less than 500 feet wide. The corridor width may not be narrower than the applicant's right-of-way. For each area in which the corridor is more or less than 500 feet in width, the department shall provide a written justification. The department may not modify a corridor after issuance of the final environmental review document.

(b) The department shall provide written notice of the availability of each environmental review document to each owner of property within a corridor. No more than 60 days prior to the availability of each environmental review document, the names and addresses of the property owners must be obtained from the property tax rolls of the county where the property is located. Except as provided in subsection (5)(c), the notice must:

(i) be delivered personally or by first-class mail. If delivered personally, the property owner shall sign a receipt verifying that the property owner received the statement.

(ii) inform the property owner that the property owner's property is located within a corridor;

(iii) inform the property owner about how a copy of the environmental review document may be obtained; and

(iv) inform the property owner of the property owner's rights under this chapter concerning the location of the facility and that more information concerning those rights may be obtained from the department.

(c) If there is more than one name listed on the property tax rolls for a single property, the notice must be mailed to the first listed property owner at the address on the property tax rolls.

(d) By mailing the notice as provided in subsection (5)(c), the notice requirements in subsection (5)(b) are satisfied.

(6) (a) A certificate holder may submit an adjustment of the location of a facility outside the approved facility siting corridor to the department. The adjustment must be accompanied by the written agreement of the affected property owner and all contiguous property owners that would be affected. The submission must include a map showing the approved facility siting corridor and the proposed adjustment. At the time of submission to the department, the adjustment must be accompanied by a copy of a legal notice published in a newspaper of general circulation in the area of the adjustment. The legal

notice must specify that public comments on the adjustment may be submitted to the department within 10 days of the publication date of the notice.

(b) The certificate holder may construct the facility as described in the submission unless the department notifies the certificate holder within 15 days of the submission that the department has determined that:

(i) the adjustment would change the basis of any finding required under 75-20-301 to the extent that the department would have selected a different siting corridor for the facility; or

(ii) the adjustment would materially increase unmitigated adverse impacts.

(c) An adjustment pursuant to subsection (6)(a) is not subject to:

(i) Title 75, chapter 1, part 2;

(ii) a certificate amendment under 75-20-219; or

(iii) a board review under 75-20-223.

(d) (i) For each facility, the department shall maintain a list of persons who requested to receive electronic notice of any adjustment submitted pursuant to this subsection (6).

(ii) Upon receipt of a submitted adjustment, the department shall:

(A) post information about the adjustment on the department's website; and

(B) electronically notify each person identified in subsection (6)(d)(i) of the adjustment and where information about the adjustment may be viewed."

Section 8. Section 75-20-304, MCA, is amended to read:

"75-20-304. Waiver of provisions of certification proceedings.

(1) The department may waive compliance with any of the provisions of 75-20-216 and this part if the applicant makes a clear and convincing showing to the department at a public hearing that an immediate, urgent need for a facility exists and that the applicant did not have knowledge that the need for the facility existed sufficiently in advance to fully comply with the provisions of 75-20-216 and this part.

(2) The department may waive compliance with any of the provisions of this chapter upon receipt of notice by a person subject to this chapter that a facility or associated facility has been damaged or destroyed as a result of fire, flood, or other natural disaster or as the result of insurrection, war, or other civil disorder and there exists an immediate need for construction of a new facility or associated facility or the relocation of a previously existing facility or associated facility in order to promote the public welfare.

(3) The department shall waive compliance with the requirements of 75-20-301(1)(c), (2)(b), and (2)(c) and the requirements of 75-20-211(1)(a)(iii) and (1)(a)(iv) and 75-20-216(3) relating to consideration of alternative sites if the applicant makes a clear and convincing showing to the department at a public hearing that:

(a) a proposed facility will be constructed in a county where a single employer within the county has permanently curtailed or ceased operations, causing a loss of 250 or more permanent jobs within 2 years at the employer's operations within the preceding 10-year period;

(b) the county and municipal governing bodies in whose jurisdiction the facility is proposed to be located support by resolution the waiver;

(c) the proposed facility will be constructed within a 15-mile radius of the operations that have ceased or been curtailed; and

(d) the proposed facility will have a beneficial effect on the economy of the county in which the facility is proposed to be located.

(4) The waiver provided for in subsection (3) applies only to permanent job losses by a single employer. The waiver provided for in subsection (3) does not

apply to jobs of a temporary or seasonal nature, including but not limited to construction jobs or job losses during labor disputes.

(5) The waiver provided for in subsection (3) does not apply to consideration of alternatives or minimum adverse environmental impact for a facility defined in ~~75-20-104(8)(a) or (8)(b)~~ 75-20-104(9)(a) or (9)(b) or for an associated facility defined in 75-20-104(3).

(6) The applicant shall pay all expenses required to process and conduct a hearing on a waiver request under subsection (3). However, any payments made under this subsection must be credited toward the fee paid under 75-20-215 to the extent that the data or evidence presented at the hearing or the decision of the department under subsection (3) can be used in making a certification decision under this chapter.

(7) The department may grant only one waiver under subsections (3) and (4) for each permanent loss of jobs as defined in subsection (3)(a)."

Section 9. Section 75-20-1202, MCA, is amended to read:

"75-20-1202. Definitions. As used in 75-20-201, 75-20-203, and this part, the following definitions apply:

(1) "Facility", as defined in ~~75-20-104(8)~~ 75-20-104(9), is further defined to include any nuclear facility as defined in subsection (2)(a).

(2) (a) "Nuclear facility" means each plant, unit, or other facility designed for or capable of:

(i) generating 50 megawatts of electricity or more by means of nuclear fission;

(ii) converting, enriching, fabricating, or reprocessing uranium minerals or nuclear fuels; or

(iii) storing or disposing of radioactive wastes or materials from a nuclear facility.

(b) Nuclear facility does not include any small-scale facility used solely for educational, research, or medical purposes not connected with the commercial generation of energy."

Section 10. Effective date. [This act] is effective on passage and approval.

Approved May 10, 2019

CHAPTER NO. 448

[HB 580]

AN ACT REQUIRING PUBLIC NOTICE FOR CERTAIN RUMBLE STRIP PROJECTS; AND AMENDING SECTION 60-2-245, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 60-2-245, MCA, is amended to read:

"60-2-245. Construction projects – project impacts – notice. (1) (a) After the commission has selected and prioritized a construction project under 60-2-110, the department or the commission shall determine whether the project will have a substantial impact on the public. If the department or the commission determines that the project will have a substantial impact, the department shall ensure that the public, in the area where the project is located and in areas adjacent to the project area, as provided in subsection (3)(a)(i), is notified of the project and is provided with periodic updates on the status of the project as provided in this section.

(b) A project with a substantial impact includes but is not limited to:

(i) a project for which additional right-of-way is necessary for project completion; and

(ii) the initial installation of rumble strips within 200 yards of a residential building, as measured from any point on a prospective rumble strip to any part of a residential building.

(2) (a) The department shall engage the public through informational meetings or other appropriate means at major milestones in phases of the project, from the selection of the project by the commission to project completion. To engage and inform the public, the department shall:

(i) place and maintain current information regarding the status of the project in a prominent location on the department's website;

(ii) use newspaper, television, and radio formats as appropriate to provide information to the public regarding the status of the project;

(iii) investigate the use of other types of media, such as electronic social media, to provide information to the public regarding the status of the project; and

(iv) maintain an electronic notification list as provided in subsection (3).

(b) For the purposes of this section, phases of a project include but are not limited to survey, design, and right-of-way phases of a project.

(3) (a) For each proposed project identified under subsection (1), the department shall maintain a list of:

(i) all local government and tribal government entities within which the project will be located that are likely to be impacted by the project or that are adjacent to the project area; and

(ii) organizations and associations that represent motorists and commercial motor vehicle companies and operators that regularly conduct business in the project area and any other organizations or entities that represent travelers or those who regularly use highways in the project area for recreational or business purposes.

(b) The department shall notify the entities identified in subsection (3)(a) when the commission selects a construction project as provided in subsection (1) and shall provide project updates of major milestones in phases of the project through electronic communication to any entity that submits a request to receive updates."

Approved May 10, 2019

CHAPTER NO. 449

[HB 597]

AN ACT GENERALLY REVISING LAWS RELATED TO UTILITY REGULATION; REVISING ENERGY RESOURCE PLANNING AND PROCUREMENT; REPEALING CERTAIN UTILITY ELECTRICITY SUPPLY RESOURCE PLANNING AND PROCUREMENT REQUIREMENTS; REQUIRING A PUBLIC UTILITY TO ESTABLISH AN ADVISORY COMMITTEE FOR RESOURCE PLANNING; ESTABLISHING A COMPETITIVE SOLICITATION PROCESS FOR PUBLIC UTILITIES; REQUIRING A PUBLIC UTILITY SEEKING APPROVAL TO ACQUIRE, CONSTRUCT, OR PURCHASE A RESOURCE TO CONDUCT A COMPETITIVE SOLICITATION PROCESS; ESTABLISHING THE REQUIREMENTS OF A COMPETITIVE SOLICITATION PROCESS; ALLOWING THE MONTANA CONSUMER COUNSEL TO REQUEST, SELECT, AND RETAIN AN INDEPENDENT MONITOR FOR COMPETITIVE SOLICITATIONS; ALLOWING THE COMMISSION TO ESTABLISH ENERGY SAVINGS

AND PEAK DEMAND REDUCTION GOALS; ALLOWING DEMAND-SIDE MANAGEMENT PROGRAMS TO BE INCLUDED IN UTILITY RATE PROCESSES; REQUIRING LEAST-COST RESOURCE PLANNING EVERY 3 YEARS; REVISING PUBLIC HEARING REQUIREMENTS FOR RESOURCE PLANS; REQUIRING UTILITIES TO HOLD PUBLIC MEETINGS WHEN DEVELOPING RESOURCE PLANS; ALLOWING THE COMMISSION TO ASSESS A FEE; ALLOWING FOR A HEARINGS EXAMINER FOR PROCEEDINGS UNDER TITLE 69; ESTABLISHING A PROCESS FOR USE OF A HEARINGS EXAMINER; GRANTING THE PUBLIC SERVICE COMMISSION RULEMAKING AUTHORITY; AMENDING SECTIONS 69-1-114, 69-3-702, 69-3-711, 69-3-712, 69-3-713, 69-3-1202, 69-3-1203, 69-3-1204, 69-3-1205, 69-3-1206, AND 69-8-421, MCA; REPEALING SECTIONS 69-8-419 AND 69-8-420, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Competitive solicitation process – Montana consumer counsel role. (1) (a) Except as provided in subsection (5), a public utility that intends to seek approval by the commission pursuant to 69-8-421 for the acquisition, construction, or purchase of an electricity supply resource shall conduct a competitive solicitation process.

(b) A public utility may not prohibit a qualifying small power production facility as defined in 69-3-601 or another utility or supplier that owns an electricity supply resource or intends to construct an electricity supply resource from participating in a competitive solicitation process.

(c) A competitive solicitation process that is open to bids that would result in the ownership of an electricity supply resource by the public utility issuing the solicitation must include the use of a third-party administrator selected by the public utility to open, consider, and evaluate bids submitted pursuant to a solicitation.

(2) A public utility that plans to conduct a competitive solicitation process shall submit the following information to the commission:

(a) a description of the competitive solicitation process that the public utility will use and proof of compliance with subsections (1)(b) and (1)(c), if applicable; and

(b) a complete draft of the proposal soliciting electricity supply resources, citing the need for resources.

(3) The commission may accept public comment on the information.

(4) (a) The Montana consumer counsel may request, select, and retain a person or organization to act as an independent monitor for a competitive solicitation process.

(b) The commission shall charge a fee to the public utility to pay for the costs of an independent monitor. These costs are recoverable in rates.

(c) The independent monitor may assist the Montana consumer counsel by:

(i) providing comments on the consistency of the competitive solicitation process with industry standards;

(ii) monitoring and observing the competitive solicitation process, paying particular attention to the public utility's evaluation of electricity supply resources that may result in utility ownership of the resource, to ensure that the utility conducts a fair and proper process in accordance with industry standards;

(iii) notifying the utility and the consumer counsel on a timely basis prior to the utility's selection of the resources of any discrepancies observed in the process and resolving any differences of opinion; and

(iv) preparing a closing report prior to the final selection of the resources regarding the consistency of the process, including selection and notification of electricity supply resources taking part in the solicitation process based on industry standards.

(5) This section does not apply to:

(a) a request for proposals or purchase by a public utility intended solely to meet the short-term operational needs of the utility for a period of less than 12 months; or

(b) an application made to the commission by a public utility to acquire, construct, or purchase an opportunity resource.

(6) For the purposes of this section, "opportunity resource" means an electricity supply resource necessary to meet a need demonstrated in a plan in accordance with 69-3-1204(2)(a)(iv) that is either new or existing and that remains unknown as to its availability for purchase until an opportunity to purchase arises.

Section 2. Resource planning -- advisory committee. (1) A public utility shall maintain a broad-based advisory committee to review, evaluate, and make recommendations on technical, economic, and policy issues related to a utility's electricity system.

(2) The committee may advise the utility on demand-side management, portfolio planning, and management and procurement completed in accordance with this part.

Section 3. Electric utility demand-side management programs.

(1) The commission may establish energy savings and peak demand reduction goals for an electric utility, taking into account the utility's cost-effective demand-side management potential and the need for electricity resources.

(2) The commission shall permit electric utilities to implement cost-effective electricity demand-side management programs and conservation in accordance with 69-3-701 through 69-3-713 and this part to reduce the need for additional resources.

(3) Every 3 years, an electric utility shall submit a report to the commission describing the demand-side management programs and conservation implemented by the electric utility in the previous year. The report must document:

(a) program expenditures, including incentive payments;

(b) peak demand and energy savings impacts and the techniques used to estimate those impacts;

(c) avoided costs and the techniques used to estimate those costs;

(d) the estimated cost-effectiveness of the programs;

(e) the net economic benefits of the programs; and

(f) any other information required by the commission.

Section 4. Hearings examiner. (1) (a) Except as provided in subsections (1)(b) and (1)(c), if requested by the applicant, the commission shall appoint a hearings examiner for proceedings under this title.

(b) If four public service commissioners determine that a hearings examiner is not required for a proceeding, the commission is not required to appoint a hearings examiner.

(c) If three public service commissioners determine that a hearings examiner is necessary for a proceeding, the commission shall appoint a hearings examiner.

(d) The determinations in this subsection (1) must be made by a vote of the commission during a public meeting.

(e) If a hearings examiner is appointed at the request of an applicant in accordance with subsection (1)(a), the commission may assess the costs to the applicant.

(f) If the public service commission determines a hearings examiner is required in accordance with subsection (1)(c), the commission shall cover the costs and may not pass those costs on to an applicant.

(g) The commission may disqualify the hearings examiner and appoint another hearings examiner. The affidavit must state the facts and the reasons for the belief that the hearings examiner should be disqualified.

(2) The hearings examiner may not communicate with any party or a party's representative in connection with any issue of fact or law in the case unless there is notice and opportunity for all parties to participate. The commission may not communicate with any party before the conclusion of the hearing.

(3) The commission may adopt rules necessary to implement the utilization of a hearings examiner in accordance with this section.

Section 5. Section 69-1-114, MCA, is amended to read:

"69-1-114. Fees. (1) Each fee charged by the commission must be reasonable.

(2) Except for a fee assessed pursuant to 69-3-204(2), *[section 1(4)(b)]*, ~~69-8-421(10)~~ *69-3-1204(6)(b)*, or 69-12-423(2), a fee set by the commission may not exceed \$500.

(3) All fees collected by the department under ~~69-8-421(10)~~ *[section 1(4)(b)]* and *69-3-1204(6)(b)* must be deposited in an account in the special revenue fund. Funds in this account must be used as provided in ~~69-8-421(10)~~ *[section 1(4)(b)]* and *69-3-1204(6)(b)*."

Section 6. Section 69-3-702, MCA, is amended to read:

"69-3-702. Eligible conservation. Conservation purchases or investments are eligible under this part if they are provided for in 69-3-1206 and in accordance with *[section 3]*."

Section 7. Section 69-3-711, MCA, is amended to read:

"69-3-711. Criteria for allowable conservation and demand-side management programs – onsite audits. (1) The commission shall approve cost-effectiveness criteria for conservation that ~~will~~ *may* be placed into a utility's rate base under this part *and demand-side management programs in accordance with 69-3-1201 through 69-3-1206 and [sections 1 through 3]*.

(2) The commission may conduct onsite energy audits to ensure compliance with the criteria established under subsection (1)."

Section 8. Section 69-3-712, MCA, is amended to read:

"69-3-712. Commission to include conservation and demand-side management programs in rate base – rate of return. (1) In order to encourage the purchase of or investment in conservation by a utility, the commission ~~shall~~ *may* include conservation purchases or investments *and demand-side management programs* eligible under 69-3-702 and in compliance with criteria adopted under 69-3-711, *69-3-1201 through 69-3-1206, and [sections 1 through 3]* in a utility's rate base.

(2) In establishing ~~such the~~ rate of return, the commission may allow an increment of up to 2% added to the rate of return on common equity permitted on the utility's other investments.

(3) The commission shall allow the rate of return increment provided for in subsection (2) for a period not to exceed 30 years after the conservation is first placed in the rate base.

(4) The commission shall prescribe amortization periods for conservation that is included in a utility's rate base."

Section 9. Section 69-3-713, MCA, is amended to read:

"69-3-713. Prohibition against utility claiming conservation tax credit. A utility whose conservation is placed in the rate base under ~~this part 69-3-1201 through 69-3-1206 and [sections 1 through 3] or this part~~ may not claim the tax credit allowed in 15-32-107."

Section 10. Section 69-3-1202, MCA, is amended to read:

"69-3-1202. Policy – planning. (1) (a) It is the policy of the state of ~~Montana~~ to supervise, regulate, and control public utilities. To the extent that it is consistent with the policy and in order to benefit society, the state ~~encourages~~ *requires* efficient utility operations, efficient use of utility services, and efficient rates.

(b) It is further the policy of the state to encourage utilities to acquire resources *using a competitive solicitation process and* in a manner that will help ensure a clean, healthful, safe, and economically productive environment.

(2) (a) The legislature finds that the commission may include in rates ~~the any~~ costs that are associated with acquiring ~~the~~ resources referred to in subsection (1) and that are consistent with this policy if the resources are actually used and useful for the convenience of the public.

(b) To advance this policy, the commission ~~may shall~~ require ~~periodic~~ long-range plans *every 3 years* from utilities that provide electric and natural gas service in a form and manner determined by the commission. The commission ~~may shall~~ receive comments on the plans.

(3) This part does not constrain or limit the commission's existing statutory duties or responsibilities."

Section 11. Section 69-3-1203, MCA, is amended to read:

"69-3-1203. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Abandonment costs" means the costs incurred for resources acquired and abandoned pursuant to a plan.

(2) "Consumer counsel" means the consumer counsel provided for in 5-15-201.

(3) "*Demand-side management programs*" means *energy efficiency, energy conservation, load management, and demand response or any combination of these measures implemented by an electric utility.*

(4) "*Energy conservation*" means *the decrease in electricity requirements of specific customers during any selected time period, resulting in a reduction in end-use services.*

(5) "*Energy efficiency*" means *the decrease in electricity requirements of specific customers during any selected period with end-use services of those customers held constant.*

(3)(6) "Externalities" mean the impacts on society that are not directly borne by the producer in production and delivery activities, which due to imperfections in or the absence of markets are not accounted for in the producer's production and pricing decisions.

(4)(7) "Plan" means an integrated least-cost resource plan submitted by a utility in accordance with this part and the rules adopted under this part.

(5)(8) "Planning costs" means the costs of evaluating the future demand for services and of evaluating alternative methods of satisfying future demand.

(9) "*Planning period*" means *the future period for which a utility develops its plan, and the period over which net present value of revenue requirements for resources is calculated. For purposes of this part, the planning period is a minimum of 20 years and begins from the date the utility files its plan with the commission.*

(6)(10) "Portfolio development costs" means the costs of preparing a resource in a portfolio for prompt and timely acquisition of the resource.

(7)(11) "Public utility" means a public utility, as defined in 69-3-101, that provides electric or natural gas service. The term does not include municipal utilities."

Section 12. Section 69-3-1204, MCA, is amended to read:

"69-3-1204. Integrated least-cost plan. (1) (a) The commission ~~may~~ *shall* adopt rules requiring a public utility to prepare and file a plan *every 3 years* for meeting the requirements of its customers in the most cost-effective manner consistent with the public utility's obligation to serve *and in accordance with this part*.

(b) The rules ~~may~~ *must* prescribe the content and the time for filing a plan.

(2) (a) A plan must contain but is not limited to:

(i) an evaluation of the full range of cost-effective means for the public utility to meet the service requirements of its Montana customers, including conservation or similar improvements in the efficiency by which services are used *and including demand-side management programs in accordance with [section 3];*

(ii) *an annual electric demand and energy forecast developed pursuant to commission rules that includes energy and demand forecasts for each year within the planning period and historical data, as required by commission rule;*

(iii) *an assessment of planning reserve margins and contingency plans for the acquisition of additional resources developed pursuant to commission rules;*

(iv) *an assessment of the need for additional resources and the utility's plan for acquiring resources;*

(v) *the proposed process the utility intends to use to solicit bids for energy and capacity resources to be acquired through a competitive solicitation process in accordance with [section 1]; and*

(vi) *descriptions of at least two alternate scenarios that can be used to represent the costs and benefits from increasing amounts of renewable energy resources and demand-side management programs, based on rules developed by the commission.*

(b) *The utility shall fully explain, justify, and document the data, assumptions, methodologies, models, determinants, and any other inputs on which it relied to develop information required in subsection (2)(a).*

(3) (a) The commission may adopt rules providing guidelines to be used in preparing a plan and identifying the criteria to be used in determining cost-effectiveness.

(b) The criteria may include externalities associated with the acquisition of a resource by a public utility.

(c) The rules must establish the minimum filing requirements for acceptance of a plan by the commission for further review. If a plan does not meet the minimum filing requirements, it must be returned to the public utility with a list of deficiencies. A corrected plan must be submitted within the time established by the commission.

(4) A plan filed with the commission by a utility, as defined in 75-20-104, must be provided to the department of environmental quality and the consumer counsel.

(5) *The commission shall:*

(a) *review the plan;*

(b) *publish a copy of the plan;*

(c) *allow for a minimum of 60 days for the public to comment on the plan;*
and

(d) *provide public meetings in accordance with 69-3-1205.*

- (6) (a) *The commission may identify deficiencies in the plan, including:*
 (i) *any concerns of the commission regarding the public utility's compliance with commission rules; and*
 (ii) *ways to remedy the concerns.*
 (b) *The commission may engage independent engineering, financial, and management consultants or advisory services to evaluate a public utility's plan. The consultants must have demonstrated knowledge and experience with resource procurement and resource portfolio management, modeling, risk management, and engineering practices. The commission shall charge a fee to the public utility to pay for the costs of consultants or advisory services. These costs are recoverable in rates."*

Section 13. Section 69-3-1205, MCA, is amended to read:

"69-3-1205. Public comment – public meetings. (1) *When developing a plan in accordance with this part and prior to submitting a plan to the commission, a public utility shall hold at least two public meetings in the utility's Montana service territory to ensure a plan best meets the diverse goals of shareholders, ratepayers, and society.*

~~(1)~~(2) *After a plan is submitted, the commission shall conduct a two public meeting meetings for the purpose of receiving comment on a plan. The commission or the department of public service regulation may comment on the plan. A comment by the commission or the department may not be construed as preapproval by the commission of rate treatment for any proposed resource.*

~~(2)~~(3) *The department of environmental quality:*

(a) *shall review a plan submitted to the commission and comment on the need for new resources, the alternatives evaluated to meet the need, the environmental implications of the resource choices, and other related issues that it considers important. The department shall coordinate and deliver all comments from other executive branch agencies.*

(b) *may use a plan in the development of studies for a specific energy facility for which an application for a certificate of compliance is submitted under Title 75, chapter 20.*

~~(3)~~(4) *The consumer counsel shall review and may comment on a submitted plan."*

Section 14. Section 69-3-1206, MCA, is amended to read:

"69-3-1206. Rate treatment. (1) *The commission may include in a public utility's rates:*

(a) *the cost of resources acquired in accordance with a plan;*

(b) *demand-side management programs established and implemented in accordance with [section 3];*

~~(b)~~(c) *the cost-effective expenditures for improving the efficiency with which the public utility provides and its customers use utility services; and*

~~(c)~~(d) *the costs of complying with the planning requirements of this part; and*

(e) *the costs of complying with a competitive solicitation process conducted in accordance with [section 1]., including but not limited to:*

(i) *planning costs;*

(ii) *portfolio development costs; and*

(iii) *all or a portion of abandonment costs.*

~~(2)~~(2) *The commission shall may adopt rules establishing criteria governing the extent of recovery of abandonment costs."*

Section 15. Section 69-8-421, MCA, is amended to read:

"69-8-421. Approval of electricity supply resources. (1) *A public utility that removed its generation assets from its rate base pursuant to this*

chapter prior to October 1, 2007, may apply to the commission for approval of an electricity supply resource that:

(a) is not yet procured; and

(b) *is subject to a competitive solicitation process when applicable in accordance with [section 1].*

(2) Within 45 days of the public utility's submission of an application for approval, the commission shall determine whether or not the application is adequate and in compliance with the commission's minimum filing requirements. If the commission determines that the application is inadequate, it shall explain the deficiencies.

(3) The commission shall issue an order within 180 days of receipt of an adequate application for approval of a power purchase agreement from an existing generating resource unless it determines that extraordinary circumstances require additional time.

(4) (a) Except as provided in subsections (4)(b) through (4)(d), the commission shall issue an order within 270 days of receipt of an adequate application for approval of a lease, an acquisition of an equity interest in a new or existing plant or equipment used to generate electricity, or a power purchase agreement for which approval would result in construction of a new electric generating resource. The commission may extend the time limit up to an additional 90 days if it determines that extraordinary circumstances require it.

(b) If an air quality permit pursuant to Title 75, chapter 2, is required for a new electrical generation resource or a modification to an existing resource, the commission shall hold the public **hearing meetings** on the application for approval *in accordance with 69-3-1205(2)* at least 30 days after the issuance of the final air quality permit.

(c) If a final air quality permit is not issued within the time limit pursuant to subsection (4)(a), the commission shall extend the time limit in order to comply with subsection (4)(b).

(d) The commission may extend the time limit for issuing an order for an additional 60 days following the **hearing meetings** pursuant to subsection (4)(b).

(5) To facilitate timely consideration of an application, the commission may initiate proceedings to evaluate planning and procurement activities related to a potential resource procurement, *if necessary, in accordance with [section 1]* prior to the public utility's submission of an application for approval.

(6) (a) The commission may approve or deny, in whole or in part, an application for approval of an electricity supply resource.

(b) The commission may consider all relevant information known up to the time that the administrative record in the proceeding is closed in the evaluation of an application for approval.

(c) A commission order granting approval of an application must include the following findings:

(i) approval, in whole or in part, is in the public interest; and

(ii) procurement of the electricity supply resource is consistent with the requirements *and objectives* in 69-3-201, ~~the objectives in 69-8-419~~ *69-3-1201 through 69-3-1206, [sections 1 through 3], and commission rules.*

(d) The commission order may include a provision for allowable generation assets cost of service when the utility has filed an application for the lease or acquisition of an equity interest in a plant or equipment used to generate electricity.

(e) When issuing an order for the acquisition of an equity interest or lease in a facility or equipment that is constructed after January 1, 2007, and that

is used to generate electricity that is primarily fueled by natural or synthetic gas, the commission shall require the applicant to implement cost-effective carbon offsets. Expenditures required for cost-effective carbon offsets pursuant to this subsection (6)(e) are fully recoverable in rates. By March 31, 2008, the commission shall adopt rules for the implementation of this subsection (6)(e).

(f) The commission order may include other findings that the commission determines are necessary.

(g) A commission order that denies approval must describe why the findings required in subsection (6)(c) could not be reached.

(7) Notwithstanding any provision of this chapter to the contrary, if the commission has issued an order containing the findings required under subsection (6)(c), the commission may not subsequently disallow the recovery of costs related to the approved electricity supply resource based on contrary findings.

(8) Until the state or federal government has adopted uniformly applicable statewide standards for the capture and sequestration of carbon dioxide, the commission may not approve an application for the acquisition of an equity interest or lease in a facility or equipment used to generate electricity that is primarily fueled by coal and that is constructed after January 1, 2007, unless the facility or equipment captures and sequesters a minimum of 50% of the carbon dioxide produced by the facility. Carbon dioxide captured by a facility or equipment may be sequestered offsite from the facility or equipment.

(9) Nothing limits the commission's ability to subsequently, in any future rate proceeding, inquire into the manner in which the public utility has managed, dispatched, operated, or maintained any resource or managed any power purchase agreement as part of its overall resource portfolio. The commission may subsequently disallow rate recovery for the costs that result from the failure of a public utility to reasonably manage, dispatch, operate, maintain, or administer electricity supply resources in a manner consistent with 69-3-201, 69-8-419, and commission rules.

~~(10) The commission may engage independent engineering, financial, and management consultants or advisory services to evaluate a public utility's electricity supply resource procurement plans and proposed electricity supply resources. The consultants must have demonstrated knowledge and experience with electricity supply procurement and resource portfolio management, modeling, risk management, and engineering practices. The commission shall charge a fee to the public utility to pay for the costs of consultants or advisory services. These costs are recoverable in rates.~~

~~(11)(10) By March 31, 2008, the~~ *The* commission shall adopt rules prescribing minimum filing requirements for applications filed pursuant to this part."

Section 16. Repealer. The following sections of the Montana Code Annotated are repealed:

69-8-419. Electricity supply resource planning and procurement -- duties of public utility -- objectives -- commission rules.

69-8-420. Electricity supply resource procurement plans -- comment on plans.

Section 17. Codification instruction. (1) [Sections 1 through 3] are intended to be codified as an integral part of Title 69, chapter 3, part 12, and the provisions of Title 69, chapter 3, part 12, apply to [sections 1 through 3].

(2) [Section 4] is intended to be codified as an integral part of Title 69, chapter 2, part 1, and the provisions of Title 69, chapter 2, part 1, apply to [section 4].

Section 18. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 19. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 20. Effective date. [This act] is effective July 1, 2020.

Approved May 10, 2019

CHAPTER NO. 450

[HB 612]

AN ACT INCREASING THE NUMBER OF PROFESSIONAL POSITIONS AT THE BOARD OF INVESTMENTS; AMENDING SECTION 2-18-103, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-18-103, MCA, is amended to read:

“2-18-103. Officers and employees excepted. Parts 1 through 3 and 10 do not apply to the following officers and employees in state government:

- (1) elected officials;
- (2) county assessors and their chief deputies;
- (3) employees of the office of consumer counsel;
- (4) judges and employees of the judicial branch;
- (5) members of boards and commissions appointed by the governor, the legislature, or other elected state officials;
- (6) officers or members of the militia;
- (7) agency heads appointed by the governor;
- (8) academic and professional administrative personnel with individual contracts under the authority of the board of regents of higher education;
- (9) academic and professional administrative personnel and live-in houseparents who have entered into individual contracts with the state school for the deaf and blind under the authority of the state board of public education;
- (10) investment officer, assistant investment officer, executive director, and ~~five~~ *eight* professional staff positions of the board of investments;
- (11) four professional staff positions under the board of oil and gas conservation;
- (12) assistant director for security of the Montana state lottery;
- (13) executive director and employees of the state compensation insurance fund;
- (14) state racing stewards employed by the executive secretary of the Montana board of horseracing;
- (15) executive director of the Montana wheat and barley committee;
- (16) commissioner of banking and financial institutions;
- (17) training coordinator for county attorneys;
- (18) employees of an entity of the legislative branch consolidated, as provided in 5-2-504;
- (19) chief information officer in the department of administration;
- (20) chief business development officer and six professional staff positions in the office of economic development provided for in 2-15-218;
- (21) the following positions in the office of state public defender established in 2-15-1029:

(a) the public defender division administrator appointed as provided in 47-1-105;

(b) the deputy public defenders provided for in 47-1-201(3)(a), who are appointed by the public defender division administrator;

(c) the appellate defender division administrator appointed as provided in 47-1-105;

(d) the conflict defender division administrator appointed as provided in 47-1-105; and

(e) the director of the office of state public defender provided for in 2-15-1029.”

Section 2. Effective date. [This act] is effective July 1, 2019.

Approved May 10, 2019

CHAPTER NO. 451

[HB 633]

AN ACT CREATING THE DIGITAL LIBRARY SERVICES STATE SPECIAL REVENUE ACCOUNT; PROVIDING FOR A STUDY OF A FUNDING FORMULA FOR DIGITAL LIBRARY SERVICES; PROVIDING FOR A TRANSFER AND AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Digital library services special revenue account.

(1) There is an account in the state special revenue fund established in 17-2-102 to the credit of the state library to be known as the digital library services state special revenue account.

(2) There must be deposited in the account:

(a) quarterly payments from state agencies for use of the natural resource information system established in 90-15-301;

(b) legislative transfers to the account; and

(c) any funds allocated to the account.

(3) The purpose of the fund is to provide digital library services throughout the state.

Section 2. Digital library services funding study. During the 2019-2020 interim, the legislative finance committee shall direct a study of a funding formula to adequately and fairly distribute the cost of administering and operating the natural resource information system and other digital library services among state agencies and private or commercial entities.

Section 3. Fund transfer – appropriation. (1) The state treasurer shall transfer \$100 from the general fund to the account established in [section 1] by August 15, 2019.

(2) For the biennium beginning July 1, 2019, there is appropriated \$100 from the account established in [section 1] to the state library to provide digital library services.

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 22, chapter 1, and the provisions of Title 22, chapter 1, apply to [section 1].

Section 5. Effective date. [This act] is effective July 1, 2019.

Approved May 10, 2019

CHAPTER NO. 452

[HB 636]

AN ACT REVISING PROPERTY TAX LAWS RELATED TO PROTESTED TAXES; PROVIDING FOR REIMBURSEMENT FROM THE GENERAL FUND TO LOCAL GOVERNMENTS FOR A PORTION OF PROTESTED TAXES IF THE FINAL ASSESSED VALUE IS LESS THAN 75% OF THE ORIGINAL ASSESSED VALUE; AMENDING SECTION 15-1-402, MCA; AND PROVIDING AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-1-402, MCA, is amended to read:

“15-1-402. Payment of property taxes or fees under protest. (1) (a) The person upon whom a property tax or fee is being imposed under this title may, before the property tax or fee becomes delinquent, pay under written protest that portion of the property tax or fee protested.

(b) The protested payment must:

(i) be made to the officer designated and authorized to collect it;

(ii) specify the grounds of protest; and

(iii) not exceed the difference between the payment for the immediately preceding tax year and the amount owing in the tax year protested unless a different amount results from the specified grounds of protest, which may include but are not limited to changes in assessment due to reappraisal under 15-7-111.

(c) If the protested property tax or fee is on property that is subject to central assessment pursuant to 15-23-101, the person shall report to the department the grounds of the protest and the amount of the protested payment for each county in which a protested payment was made.

(2) A person appealing a property tax or fee pursuant to Title 15, chapter 2 or 15, including a person appealing a property tax or fee on property that is annually assessed by the department or subject to central assessment pursuant to 15-23-101(1) or (2), shall pay the tax or fee under protest when due in order to receive a refund. If the tax or fee is not paid under protest when due, the appeal or mediation may continue but a tax or fee may not be refunded as a result of the appeal or mediation.

(3) If a protested property tax or fee is payable in installments, a subsequent installment portion considered unlawful by the state tax appeal board need not be paid and an action or suit need not be commenced to recover the subsequent installment. The determination of the action or suit commenced to recover the first installment portion paid under protest determines the right of the party paying the subsequent installment to have it or any part of it refunded to the party or the right of the taxing authority to collect a subsequent installment not paid by the taxpayer plus interest from the date the subsequent installment was due.

(4) (a) Except as provided in subsection (4)(b), all property taxes and fees paid under protest to a county or municipality must be deposited by the treasurer of the county or municipality to the credit of a special fund to be designated as a protest fund and must be retained in the protest fund until the final determination of any action or suit to recover the taxes and fees unless they are released at the request of the county, municipality, or other local taxing jurisdiction pursuant to subsection (5). This section does not prohibit the investment of the money of this fund in the state unified investment program or in any manner provided in Title 7, chapter 6. The provision creating

the special protest fund does not apply to any payments made under protest directly to the state.

(b) (i) Property taxes that are levied by the state against property that is centrally assessed pursuant to 15-23-101 and any protested taxes on industrial property that is annually assessed by the department in a school district that has elected to waive its right to protested taxes in a specific year pursuant to 15-1-409 must be remitted by the county treasurer to the department for deposit as provided in subsections (4)(b)(ii) through (4)(b)(iv).

(ii) The department shall deposit 50% of that portion of the funds levied for the university system pursuant to ~~15-10-108~~ 15-10-109 in the state special revenue fund to the credit of the university system, and the other 50% of the funds levied pursuant to ~~15-10-108~~ 15-10-109 must be deposited in a centrally assessed property tax state special revenue fund.

(iii) Fifty percent of the funds remaining after the deposit of university system funds must be deposited in the state general fund, and the other 50% must be deposited in a centrally assessed property tax state special revenue fund.

(iv) Fifty percent of the funds from a school district that has waived its right to protested taxes must be deposited in the state general fund, and the other 50% must be deposited in a school district property tax protest state special revenue fund.

(5) (a) Except as provided in subsections (5)(b) and (5)(c), the governing body of a taxing jurisdiction affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except the first-year protest amount.

(b) The governing body of a taxing jurisdiction affected by the payment of taxes under protest on property that is centrally assessed pursuant to 15-23-101 or on industrial property that is assessed annually by the department in the first and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled. The decision in a previous year of a taxing jurisdiction to leave protested taxes of centrally assessed property in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled.

(c) The provisions of subsection (5)(b) do not apply to a school district that has elected to waive its right to its portion of protested taxes on centrally assessed property and on industrial property that is assessed annually by the department for that specific year as provided in 15-1-409.

(6) (a) If action before the county tax appeal board, state tax appeal board, or district court is not commenced within the time specified or if the action is commenced and finally determined in favor of the department of revenue, county, municipality, or treasurer of the county or the municipality, the amount of the protested portions of the property tax or fee must be taken from the protest fund or the centrally assessed property tax state special revenue fund and deposited to the credit of the fund or funds to which the property tax belongs, less a pro rata deduction for the costs of administration of the protest fund and related expenses charged to the local government units.

(b) (i) If the action is finally determined adversely to the governmental entity levying the tax, then the treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of the final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund to the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or fee that the person holding the judgment is entitled to recover, together with interest from the date of payment under protest. The department shall refund from the school district property tax protest state special revenue fund the protested portions of property taxes and interest to a taxpayer in a school district in which the school district has elected to waive its right to its portion of protested taxes for that specific year as provided in 15-1-409. If the amount available for the refund in the school district property tax protest state special revenue fund is insufficient to refund the property tax payments, the department shall pay the remainder of the refund from the state general fund.

(ii) The taxing jurisdiction shall pay interest at the rate of interest earned by the pooled investment fund provided for in 17-6-203 for the applicable period.

(c) If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the treasurer shall apply the available amount first to tax repayment, then to interest owed, and lastly to costs.

(d) (i) (A) *If, after a final determination by the state tax appeal board or a court or after settlement of an appeal, the final assessed value of a property that is centrally assessed under 15-23-101 or an industrial property that is annually assessed by the department is less than 75% of the department's original assessed value, the governing body may demand that the state refund from the general fund the protested taxes equivalent to the difference between the final determined assessed value and 75% of the original assessed value.*

(B) *For industrial property under subsection (6)(d)(i)(A) in which the school district has elected to waive its right to its portion of protested taxes for that specific year, the department shall refund from the school district property tax protest state special revenue fund the protested portions of property taxes and interest to a taxpayer.*

(C) *The provisions of subsection (6)(d)(i)(A) do not apply to protested taxes for which the taxpayer protests the classification of the property.*

~~(d) (i)~~ (ii) If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the treasurer that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction is proratably responsible. The treasurer is not responsible for the amount required to be refunded by the state treasurer as provided in subsection (6)(b).

(ii)(iii) For an adverse protest action against the state for centrally assessed property, the department shall refund from the centrally assessed property tax state special revenue fund the amount of protested taxes and from the state general fund the amount of interest as required in subsection (6)(b). The amount refunded for an adverse protested action from the centrally assessed property tax state special revenue fund may not exceed the amount of protested taxes or fees required to be deposited for that action pursuant to subsections (4)(b)(ii) and (4)(b)(iii) or, for taxes or fees protested prior to April 28, 2005, an equivalent amount of the money transferred to the fund pursuant to section 3, Chapter 536, Laws of 2005. If the amount available for the adverse protested action in the centrally assessed property tax state special revenue fund is

insufficient to refund the tax payments to which the taxpayer is entitled and for which the state is responsible, the department shall pay the remainder of the refund proportionally from the state general fund and from money deposited in the state special revenue fund levied pursuant to ~~15-10-108~~ 15-10-109.

(e) In satisfying the requirements of subsection (6)(d), the taxing jurisdiction, including the state, is allowed not more than 1 year from the beginning of the fiscal year following a final resolution of the protest. The taxpayer is entitled to interest on the unpaid balance at the rate referred to in subsection (6)(b) from the date of payment under protest until the date of final resolution of the protest and at the combined rate of the federal reserve discount rate quoted from the federal reserve bank in New York, New York, on the date of final resolution, plus 4 percentage points, from the date of final resolution of the protest until refund is made.

(7) A taxing jurisdiction, except the state, may satisfy the requirements of this section by use of funds from one or more of the following sources:

(a) imposition of a property tax to be collected by a special tax protest refund levy;

(b) the general fund or any other funds legally available to the governing body; and

(c) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or school district is authorized to issue the bonds pursuant to procedures established by law. The bonds may be issued without being submitted to an election. Property taxes may be levied to amortize the bonds.

(8) If the department revises an assessment that results in a refund of taxes of \$5 or less, a refund is not owed."

Section 2. Applicability. [This act] applies to protested taxes paid and appeals adjudicated after December 31, 2019.

Approved May 10, 2019

CHAPTER NO. 453

[HB 639]

AN ACT CREATING THE LEGISLATIVE AUDIT SPECIALIST SERVICES STATE SPECIAL REVENUE ACCOUNT; PROVIDING FOR CARRYFORWARD APPROPRIATION AUTHORITY; PROVIDING FOR A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-304 AND 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Legislative audit specialist services reserve account.

(1) There is an account in the state special revenue fund established by 17-2-102 to the credit of the legislative auditor to be known as the legislative audit specialist services reserve account. Money may be deposited in the account through an allocation of money to the account or as provided in 17-7-304.

(2) The money in the account is statutorily appropriated, as provided in 17-7-502, to the legislative auditor and may be used only for contracted services necessary to provide specialist expertise in support of activities authorized under this chapter.

(3) Allocations of money to the account must be approved by the legislative audit committee provided for in 5-13-201 and the balance in the account may not exceed \$50,000, not including interest earnings.

(4) The money in the account may be expended with the approval of the legislative auditor, who shall advise and consult with the legislative audit committee on the use of the money and the disposition of the account.

(5) The money in the account must be invested pursuant to Title 17, chapter 6. The income and earnings on the account must be deposited in the account.

Section 2. Section 17-7-304, MCA, is amended to read:

“17-7-304. Disposal of unexpended appropriations. (1) All money appropriated for any specific purpose except that appropriated for the university system units listed in subsection (2) and except as provided in subsection (4) must, after the expiration of the time for which appropriated, revert to the several funds and accounts from which originally appropriated. However, any unexpended balance in any specific appropriation may be used for the years for which the appropriation was made or may be used to fund the provisions of 2-18-1203 through 2-18-1205 and 19-2-706 in the succeeding year.

(2) Except as provided in 17-2-108 and subsection (3) of this section, all money appropriated for the university of Montana campuses at Missoula, Butte, Dillon, and Helena and the Montana state university campuses at Bozeman, Billings, Havre, and Great Falls, the agricultural experiment station with central offices at Bozeman, the forest and conservation experiment station with central offices at Missoula, the cooperative extension service with central offices at Bozeman, and the bureau of mines and geology with central offices in Butte must, after the expiration of the time for which appropriated, revert to an account held by the board of regents. The board of regents is authorized to maintain a fund balance and to use the funds held in this account in accordance with a long-term plan for major and deferred maintenance expenditures and equipment or fixed assets purchases prepared by the affected university system units and approved by the board of regents. The affected university system units may, with the approval of the board of regents, modify the long-term plan at any time to address changing needs and priorities. The board of regents shall communicate the plan to each legislature, to the finance committee when requested by the committee, and to the office of budget and program planning.

(3) Subsection (2) does not apply to reversions that are the result of a reduction in spending directed by the governor pursuant to 17-7-140. Any amount that is a result of a reduction in spending directed by the governor must revert to the fund or account from which it was originally appropriated.

(4) (a) Subject to subsection (4)(b), after the end of a fiscal year, 30% of the money appropriated to an agency for that year by the general appropriations act for personal services, operating expenses, and equipment, by fund type, and remaining unexpended and unencumbered at the end of the year may be reappropriated to be spent during the following 2 years for any purpose, except for increases in pay, that is consistent with the goals and objectives of the agency. The dollar amount of the 30% amount that may be carried forward and spent must be determined by the office of budget and program planning.

(b) (i) Any portion of the 30% of the unexpended and unencumbered money referred to in subsection (4)(a) that was appropriated to a legislative branch entity may be deposited in the account established in 5-11-407.

(ii) After the end of a biennium, any portion of the unexpended and unencumbered money appropriated for the operation of the preceding legislature in a separate appropriation act may be deposited in the account established in 5-11-407. The approving authority shall determine the portion of the unexpended and unencumbered money that is deposited in the account.

(iii) *Any portion of the 30% of the unexpended and unencumbered money referred to in subsection (4)(a) that was appropriated to the legislative audit division may be deposited in the account established in [section 1].*

(5) When the carryforward appropriation authority is established on the accounting system, and prior to spending funds pursuant to subsection (4), an agency must report to the approving authority how those funds will be spent in the following 2 years.”

Section 3. Section 17-7-502, MCA, is amended to read:

“17-7-502. Statutory appropriations – definition – requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; *[section 1]*; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-416; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers’ retirement system’s unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021;

pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023, and pursuant to sec. 2, Ch. 340, L. 2017, and sec. 32, Ch. 429, L. 2017, is void for fiscal years 2018 and 2019; and pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027.)”

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 5, chapter 13, part 4, and the provisions of Title 5, chapter 13, part 4, apply to [section 1].

Section 5. Effective date. [This act] is effective on passage and approval.

Approved May 10, 2019

CHAPTER NO. 454

[HB 657]

AN ACT PROVIDING FOR A LEGISLATIVE STUDY OF EDUCATION-RELATED TOPICS TO BE CONDUCTED BY A BIPARTISAN SUBCOMMITTEE OF THE LEGISLATIVE FINANCE COMMITTEE; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Legislative finance committee study of fiscal issues regarding education – reports to education interim committee.

(1) For the 2019-2020 interim, the legislative finance committee provided for in 5-12-201 shall direct a study of the following topics related to education:

- (a) K-12 special education funding;
- (b) the community college funding formula; and
- (c) postsecondary career and technical education credit values.

(2) (a) The legislative finance committee shall establish an education funding subcommittee to complete its work in accordance with this section.

(b) The presiding officer of the legislative finance committee, in consultation with the presiding officer of the joint appropriations subcommittee on education, shall appoint the members of the education funding subcommittee with equal representation from the majority and minority parties and is encouraged to include members of the joint appropriations subcommittee on education and the education interim committee.

(3) The results of the study must be presented in accordance with 5-11-210 to the legislative finance committee and the education interim committee before September 1, 2020.

(4) The legislative fiscal division shall provide administrative staff support and fiscal analysis. The legislative services division may provide research and legal support at the request of the education funding subcommittee.

Section 2. Appropriation. For the biennium beginning July 1, 2019, there is appropriated \$5,000 from the general fund to the legislative fiscal division for purposes of conducting the study as set forth in [section 1].

Section 3. Contingent voidness. If [this act] is passed and approved and does not contain an appropriation, [this act] is void.

Section 4. Effective date. [This act] is effective on passage and approval.

Section 5. Termination. [This act] terminates December 31, 2020.

Approved May 10, 2019

CHAPTER NO. 455

[HB 661]

AN ACT REVISING AERONAUTICS FUNDING LAWS; INCREASING THE AVIATION FUEL TAX; REPEALING THE AVIATION FUEL TAX REFUND FOR SCHEDULED AIRLINES; REVISING THE DISTRIBUTION OF AVIATION FUEL TAXES; REVISING THE DISTRIBUTION OF AIRCRAFT REGISTRATION FEES; INCREASING AIRCRAFT REGISTRATION FEES; PROVIDING STATUTORY APPROPRIATIONS; AMENDING SECTIONS 15-70-403, 15-70-410, 15-70-425, 15-70-432, 17-7-502, 60-3-201, 67-1-301, 67-1-303, 67-3-205, AND 67-3-206, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Aeronautics operations account. (1) There is an aeronautics operations account in the state special revenue fund. Revenue from the aviation fuel tax must be deposited in the account to the credit of the department pursuant to 67-1-301(3)(a).

(2) Money in the account must be used for the purpose of administering department functions pertaining to aeronautical powers and duties as provided in 67-2-101.

Section 2. Airport grant account. (1) There is an airport grant account in the state special revenue fund. Revenue from the aviation fuel tax must be deposited in the account to the credit of the department pursuant to 67-1-301(3)(b).

(2) Money in the account is statutorily appropriated, as provided in 17-7-502, and with the approval of the board may be used to provide grants to local governments for airport development or improvement programs and to provide navigational aids, safety improvements, weather reporting services, and other aeronautical services for airports and landing fields and for the state's airways.

(3) The board shall establish procedures for the awarding of grants. The grant procedures must include a provision allowing a grant for the entire local match required for a project funded with federal funds.

Section 3. Section 15-70-403, MCA, is amended to read:

"15-70-403. Gasoline, and special fuel, and aviation fuel tax -- incidence -- rates. (1) The incidence of the fuel tax is on the distributor for the privilege of engaging in and carrying on business in this state. Each distributor shall pay to the department of transportation a tax in an amount equal to:

(a) for each gallon of gasoline distributed by the distributor within the state and upon which the gasoline tax has not been paid by any other distributor:

- (i) 31.5 cents in fiscal years 2018 and 2019;
- (ii) 32 cents in fiscal years 2020 and 2021;
- (iii) 32.5 cents in fiscal year 2022; and
- (iv) 33 cents in fiscal year 2023 and thereafter;

(b) for each gallon of special fuel distributed by the distributor within the state and on which the special fuel tax has not been paid by any other distributor:

- (i) 29.25 cents in fiscal years 2018 and 2019;
- (ii) 29.45 cents in fiscal years 2020 and 2021;
- (iii) 29.55 cents in fiscal year 2022; and
- (iv) 29.75 cents in fiscal year 2023 and thereafter; and

(c) 4 5 cents for each gallon of aviation fuel, other than fuel sold to the federal defense fuel supply center, which is allocated to the department as provided by 67-1-301.

(2) The gasoline tax provided for in subsection (1)(a) must be deposited as follows:

(a) the revenue from 23 cents of the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the highway restricted account provided for in 15-70-126;

(b) the revenue from 4 cents of the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the highway patrol administration state special revenue account established in 44-1-110; and

(c) the remaining revenue from the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the bridge and road safety and accountability restricted account provided for in 15-70-127.

(3) The special fuel tax provided for in subsection (1)(b) must be deposited as follows:

(a) the revenue from 23 3/4 cents of the tax to the highway restricted account provided for in 15-70-126;

(b) the revenue from 4 cents of the tax to the highway patrol administration state special revenue account established in 44-1-110; and

(c) the remaining revenue from the tax to the bridge and road safety and accountability restricted account provided for in 15-70-127.

(4) Gasoline or special fuel may not be included in the measure of the distributor's tax if it is sold for export unless the distributor is not licensed and is not paying the tax to the state where the fuel is destined.

(5) Special fuel may not be included in the measure of the distributor's tax if it is dyed by injector at a refinery or terminal for off-highway use.

(6) When no Montana fuel tax has been paid by a distributor or any other person, the department shall collect or cause to be collected from the owners or operators of motor vehicles operating on the public roads and highways of this state a tax equal to the tax rate provided for in subsection (1)(a) for gasoline and subsection (1)(b) for dyed or undyed special fuel. The tax must be paid for each gallon of gasoline or special fuel as defined in this part, or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity test sold or used to produce motor power to operate motor vehicles on the public roads and highways of this state.

(7) The tax may not be imposed on dyed special fuel delivered into the fuel supply tank of a vehicle that is equipped with a feed delivery box if:

- (a) the feed delivery box is permanently affixed to the vehicle;
- (b) the vehicle is used exclusively for the feeding of livestock; and

(c) the gross vehicle weight of the vehicle, exclusive of any towed units, is greater than 12,000 pounds.

(8) All special fuel or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity test sold or used in motor vehicles, motorized equipment, and the internal combustion of any engines, including stationary engines, and used in connection with any work performed under any contracts pertaining to the construction, reconstruction, or improvement of a highway or street and its appurtenances awarded by any public agencies, including federal, state, county, municipal, or other political subdivisions, must be undyed fuel on which Montana fuel tax has been paid.

(9) Material used for construction, reconstruction, or improvement in connection with work performed under a contract as provided in subsection (8) must be produced using fuel on which Montana fuel tax has been paid.”

Section 4. Section 15-70-410, MCA, is amended to read:

“15-70-410. Distributor’s statement and payment – confidentiality.

(1) Each distributor shall, not later than the 25th day of each calendar month, except as provided in 15-70-113(3), render to the department of transportation a signed statement that specifies all gasoline or special fuel distributed and received by the distributor in this state during the preceding calendar month and that contains other information the department may reasonably require in order to administer the fuel tax law. The statement must be accompanied by a payment in an amount equal to the tax imposed by 15-70-403, less any refund credit issued under 15-70-425 and less 1% of the total tax that may be deducted by the distributor as an allowance for collection. An allowance may not be deducted from the ~~4-cent~~ tax on aviation fuel.

(2) A distributor engaged in or carrying on a business at more than one location in this state may include all places of business in one statement.

(3) The department or a deputy, assistant, agent, clerk, or other employee of the department may not publish or otherwise disseminate information contained in a statement required under this section in a form that allows identification of a distributor or a purchaser of fuel. This section does not prohibit:

(a) the delivery to a distributor or a distributor’s authorized representative of a certified copy of any return or report filed in connection with the distributor’s tax;

(b) the inspection by the attorney general or by another legal representative of the state of the report or return of a distributor who brings an action to set aside or review the tax based on the report or return or against whom an action or proceeding has been instituted in accordance with the provisions of Title 15;

(c) the publication of statistics classified to prevent the identification of particular reports or returns and the items in the reports or returns;

(d) the inspection by the commissioner of internal revenue of the United States or by the proper officer of any state imposing a tax on gasoline or special fuel or by any representative of either officer of the report or return of any distributor or the furnishing to the officer or authorized representative of an abstract of the report or return, but permission must be granted or information must be furnished to the officer or the officer’s representative only if the statutes of the United States or the other state grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter or in compliance with 15-70-121 and 15-70-122; or

(e) the compliance of the department with any order of a court of competent jurisdiction.”

Section 5. Section 15-70-425, MCA, is amended to read:

“15-70-425. Refund or credit authorized. (1) A person who purchases and uses any gasoline or special fuel on which the Montana gasoline or special fuel tax has been paid for denaturing ethanol to be used in ethanol-blended gasoline, operating stationary gasoline or special fuel engines used off the public roads and highways of this state, or for any commercial use other than operating vehicles on any of the public roads and highways of this state is allowed a refund of the amount of tax paid directly or indirectly on the gasoline or special fuel used if the person has records, as provided in 15-70-426, to prove nontaxable use. The refund may not exceed the tax paid or to be paid to the state. ~~Except as provided in subsection (6),~~ a refund is not allowed for the tax per gallon on aviation fuel allocated to the department of transportation as provided in 67-1-301.

(2) (a) The United States government, the state of Montana, any other state, or any county, incorporated city, town, or school district of this state is entitled to a refund of the taxes paid on special fuel regardless of the use of the special fuel.

(b) (i) A nonpublic school may use dyed special fuel in buses that are owned by the nonpublic school if the buses are used for the transportation of pupils solely for nonsectarian school-related purposes.

(ii) For the purposes of this subsection (2)(b), nonpublic schools are those schools that have been accredited pursuant to 20-7-102.

(3) A distributor who pays the gasoline or special fuel tax to this state erroneously is allowed a credit or refund of the amount of tax paid.

(4) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of gasoline or special fuel with a tax liability of \$200 or greater for which the distributor has not received consideration from or on behalf of the purchaser and for which the distributor has not forgiven any liability. The distributor shall have declared the accounts of the purchaser worthless not more than once during a 3-year period and claimed those accounts as bad debts for federal or state income tax purposes.

(b) If a credit has been granted under subsection (4)(a), any amount collected on the accounts declared worthless must be reported to the department and the tax due must be prorated on the collected amount and must be paid to the department.

(c) The department may require a distributor to submit periodic reports listing accounts that are delinquent for 90 days or more.

(5) A person who purchases and exports for sale, use, or consumption outside Montana any gasoline or special fuel on which the Montana gasoline or special fuel tax has been paid is entitled to a credit or refund of the amount of tax paid unless the person is not licensed and is not paying the tax to the state where fuel is destined. Upon completion of the reports required under 15-70-416, the department shall authorize the credit or refund.

~~(6) A scheduled passenger air carrier certified under 14 CFR, part 121 or 135, may claim a refund of 2 cents on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline tax has been paid. The refund must be paid from the account established in 67-1-301(3)(a)(ii).”~~

Section 6. Section 15-70-432, MCA, is amended to read:

“15-70-432. Application for refund or credit – filing – correction by department. (1) (a) Except as provided in subsection (1)(b), the application for a refund must be a signed statement on a form furnished by the department. Except for a claim for a credit for taxes paid on unpaid accounts or special fuel taxes paid by the United States government, the state of Montana, any other state, or any county, incorporated city, town, or school district of this

state or except for a claim for a refund filed electronically, the form must be accompanied by the original bulk delivery invoice or invoices issued to the claimant at the time of each purchase and delivery and must show the total amount of gasoline or special fuel purchased ~~or aviation fuel purchased by a certified scheduled passenger air carrier~~, the total amount of gasoline or special fuel on which a refund is claimed, and the amount of the tax claimed for refund. A claim for a credit for taxes paid on accounts for which the distributor did not receive compensation must be accompanied by documents or copies of documents showing that the accounts were worthless and claimed as bad debts on the distributor's federal income tax return. Any further information pertaining to a claim must be furnished as required by the department.

(b) A claim for a refund that is filed electronically in the manner specified by the department does not require a signature or the original invoices.

(c) A claim for a refund that is filed electronically does not relieve the taxpayer of maintaining records on which the claim for a refund is based.

(2) A bulk delivery invoice issued by a dealer for a sale that does not qualify as a bulk delivery, as defined in 15-70-401, is not valid for refund purposes.

(3) ~~All~~ applications for refunds must be filed with the department within 36 months after the date on which the gasoline or special fuel was purchased as shown by invoices or after the date on which the tax was erroneously paid. A distributor may file a claim for refund of taxes erroneously paid or for a credit for taxes paid by the distributor on unpaid accounts within 3 years after the date of payment.

(4) If the department finds that the statement contains errors that are not fraudulently inserted, it may correct the statement and approve it as corrected or the department may require the claimant to file an amended statement."

Section 7. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; [section 2]; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-416; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113;

81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023, and pursuant to sec. 2, Ch. 340, L. 2017, and sec. 32, Ch. 429, L. 2017, is void for fiscal years 2018 and 2019; and pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027.)"

Section 8. Section 60-3-201, MCA, is amended to read:

"60-3-201. Distribution and use of proceeds of gasoline tax. (1) Money received in payment of the gasoline tax under 15-70-403, except those amounts paid out of the department's suspense account for gasoline tax refund, must be deposited as provided in 15-70-403(2) and (3) and used and expended as provided in 15-70-126 and 15-70-127 and this section. After deductions for amounts paid out of the suspense account for gasoline tax refunds, the remainder of the gasoline tax collected under 15-70-403 is allocated as follows:

- (a) 9/10 of 1% to the state park account;
- (b) 15/28 of 1% to a snowmobile account in the state special revenue fund;
- (c) 1/8 of 1% to an off-highway vehicle account in the state special revenue fund;
- (d) 1/25 of 1% to the aeronautics revenue fund of the department under the provisions of 67-1-301; and

(e) the remaining amount as provided for in 15-70-126 and 15-70-127.

(2) The department shall, in expending this money, carry forward construction from year to year, using the money expended in accordance with this title. Nothing in this title conflicts with Title 23 of the United States Code and the rules by which it is administered.

(3) The department may enter into cooperative agreements with the national park service and the federal highway administration for the purpose of maintaining national park approach roads in Montana.

(4) Money credited to the state park account in the state special revenue fund may be used only for the creation, improvement, and maintenance of state parks where motorboating is allowed. The legislature finds that of all the fuel sold in the state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 9/10 of 1% is used for propelling boats on waterways of this state.

(5) (a) Money credited to the snowmobile account may be used only to develop and maintain facilities open to the general public at no admission cost, to promote snowmobile safety, for enforcement purposes, and for the control of noxious weeds.

(b) Of the amounts deposited in the snowmobile account:

(i) 13% of the amount deposited must be used by the department of fish, wildlife, and parks to promote snowmobile safety and education and to enforce snowmobile laws. Two-thirds of the 13% deposited must be used to promote snowmobile safety and education and one-third of the 13% deposited must be used for the enforcement of snowmobile laws.

(ii) 1% of the amount deposited must be credited to the noxious weed management special revenue fund provided for in 80-7-816.

(c) The legislature finds that of all fuels sold in this state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 15/28 of 1% is used for propelling registered snowmobiles in this state.

(6) (a) Money credited to the off-highway vehicle account under subsection (1)(c) may be used only to develop and maintain facilities open to the general public at no admission cost, to repair areas that are damaged by off-highway vehicles, and to promote off-highway vehicle safety. Ten percent of the money deposited in the off-highway vehicle account must be used to promote off-highway vehicle safety. Up to 10% of the money deposited in the off-highway vehicle account may be used to repair areas that are damaged by off-highway vehicles.

(b) The legislature finds that of all fuel sold in this state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 1/8 of 1% is used for propelling off-highway vehicles in this state.

(7) Money credited to the *aeronautics operations* account ~~of the department of transportation provided for in [section 1]~~ may be used only to develop, improve, and maintain facilities open to the public at no admission cost and to promote aviation safety. The legislature finds that of all the fuel sold in this state for consumption in internal combustion engines, ~~except fuel for which refunds have been made~~, not less than 1/25 of 1% is used for propelling aircraft in this state."

Section 9. Section 67-1-301, MCA, is amended to read:

"67-1-301. Money – receipt and disbursement. (1) All costs and expenses of administering this title, including the salaries of employees of the department engaged in functions pertaining to aeronautics, the expenses of members of the board, and all other disbursements necessary to carry out the purposes of this title, must be paid out of the following revenue:

(a) all gifts and all legislative appropriations to the department for aeronautics; and

(b) all money received from any branch or department of the federal government or from other sources for the purposes of this title or for the furtherance of aeronautics generally in this state.

(2) All money collected under subsection (1) must be deposited in the state treasury to the credit of the department.

(3) ~~(a) Except as provided in subsection (5), the~~ *The* following amounts must be deposited from the proceeds of the ~~4-cent-a-gallon~~ tax imposed on aviation fuel by 15-70-403(1)(c):

~~(i)(a) in the state special revenue fund to the credit of the department in the aeronautics operations account provided for in [section 1], an amount equal to the proceeds of 2 0.5 cents a gallon collected under 15-70-403(1)(c) for the sole purpose of carrying out its department functions pertaining to aeronautics; and~~

~~(ii)(b) in a separate in the airport grant account in the state special revenue fund to the credit of the department provided for in [section 2], an amount equal to the proceeds of 2 4.5 cents a gallon to provide refunds pursuant to 15-70-425(6); to provide grants to municipalities for airport development or improvement programs, and to provide navigational aids, safety improvements, weather reporting services, and other aeronautical services for airports and landing fields and for the state's airways.~~

~~(b)(4) Money deposited in the account created in 67-1-306 may, with the approval of the board, be used only to provide loans to local governments and state agencies for aeronautical purposes, including airport improvement. The board shall establish procedures, including the interest rate charged, for providing loans. Proceeds of all repayments of loans, including interest, made under this subsection (3)(b) 67-1-307 must be deposited in the account created provided for in 67-1-306.~~

~~(c) Money deposited in the separate account established in subsection (3)(a)(ii) may, after refunds are provided pursuant to 15-70-425(6) and with the approval of the board, be used only to provide grants to municipalities for airport development or improvement programs and to provide navigational aids, safety improvements, weather reporting services, and other aeronautical services for airports and landing fields and for the state's airways. The board shall establish procedures for the awarding of grants.~~

~~(4)(5) Except as provided in 15-70-425, the~~ *The* gasoline tax imposed by the laws of this state on aviation fuel purchased and used for the operation of airplanes or aircraft may not be refunded.

~~(5) Of the amount of aviation fuel tax collected from the scheduled passenger air carriers certified under 14 CFR, part 121 or 135, 25% must be deposited in an account separate from the account established in subsection (3)(a)(ii) to be used only for pavement preservation grants, with the approval of the board, on airports served by these air carriers."~~

Section 10. Section 67-1-303, MCA, is amended to read:

"67-1-303. Airline property tax -- state airports. (1) Within 30 days of receipt, the county treasurer shall transmit to the department of revenue 90% of the property tax collected on property of airline companies by reason of a state airport being located in the county.

(2) The department of revenue shall place the money in the ~~state special revenue fund to the credit of the department of transportation aeronautics operations account provided for in [section 1]~~ for the purposes provided for in 67-1-301(3)(a)(~~ii~~)." *i*

Jet engine, no propeller	3,000	4,500	1,500	2,250	800	1,200	500	750	250	375
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(2) (a) Except as provided in subsection (2)(b), the age of an aircraft is determined by subtracting the manufacturer's designated model year from the current calendar year.

(b) If the purchase year of an aircraft precedes the designated model year of the aircraft and the aircraft is originally titled in Montana, then the purchase year is considered the model year for the purposes of calculating the fee in lieu of tax.

(3) The fee in lieu of tax imposed on any glider, ultralight, gyrocopter, balloon, homebuilt aircraft, antiques, or any aircraft over 40 years old is \$20 \$30."

Section 13. Restriction on administrative costs. The department of transportation may not retain any money from the increased revenue generated by [this act] for administrative purposes.

Section 14. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 67, chapter 1, part 3, and the provisions of Title 67, chapter 1, part 3, apply to [sections 1 and 2].

Section 15. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 16. Effective date. [This act] is effective July 1, 2019.

Section 17. Applicability. [This act] applies to aviation fuel sold on or after [the effective date of this act] but does not apply to contracts for essential air services entered into before [the effective date of this act].

Approved May 10, 2019

CHAPTER NO. 456

[HB 684]

AN ACT IMPLEMENTING THE PROVISIONS OF THE GENERAL APPROPRIATIONS ACT; GENERALLY REVISING LAWS RELATED TO THE JUSTICE SYSTEM; CREATING STATE SPECIAL REVENUE ACCOUNTS; PROVIDING THAT PRESENTENCE INVESTIGATIONS AND REPORTS ARE AT THE DISCRETION OF THE COURT; REVISING LAWS RELATED TO THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL; CREATING A PUBLIC SAFETY OFFICER STANDARDS AND TRAINING BUREAU IN THE DEPARTMENT OF JUSTICE; REMOVING THE COUNCIL'S ADMINISTRATIVE ATTACHMENT TO THE DEPARTMENT OF JUSTICE; PROVIDING FOR REPORTING TO THE LAW AND JUSTICE INTERIM COMMITTEE; AMENDING THE DEFINITION OF "TELEWORK"; MAKING REVISIONS RELATED TO THE WORKING INTERDISCIPLINARY NETWORK OF GUARDIANSHIP STAKEHOLDERS; REVISING RULEMAKING AUTHORITY REGARDING CORRECTIONAL FACILITIES; PROVIDING FUND TRANSFERS; AMENDING SECTIONS 2-15-2029, 2-18-101, 3-1-710, 3-1-711, 46-1-1104, 46-1-1211, 46-12-211, 46-14-311, 46-18-111, 46-18-112, 46-18-242, 53-6-1312, AND 53-30-507, MCA; AMENDING SECTION 28, CHAPTER 368, LAWS OF 2015; REPEALING SECTION 3-1-712, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Pretrial diversion program state special revenue account. (1) There is an account in the state special revenue fund established in 17-2-102 to the credit of the judicial branch to be known as the pretrial diversion program account.

(2) The purpose of the account is to fund a pilot project in five counties to analyze the costs and benefits of the following:

(a) the risk associated with an offender being released into the community prior to the offender's trial date; and

(b) the potential or actual savings in jail costs for not having the offender incarcerated during that time.

Section 2. Legislative committees and activities state special revenue account. (1) There is an account in the state special revenue fund established in 17-2-102 to the credit of the legislative services division to be known as the legislative committees and activities account.

(2) The purpose of the account is to provide funding for legislative committees and activities.

(3) Expenditures from the account must be approved by the majority and minority leaders of both houses.

Section 3. Public safety officer standards and training bureau. There is a bureau within the department of justice called the public safety officer standards and training bureau. The purpose of the bureau is to provide staff support to the public safety officer standards and training council established in 2-15-2029.

Section 4. Section 2-15-2029, MCA, is amended to read:

"2-15-2029. Montana public safety officer standards and training council – administrative attachment – rulemaking – report to law and justice interim committee. (1) (a) There is a Montana public safety officer standards and training council. The council is a quasi-judicial board, as provided for in 2-15-124, and is allocated to the department of justice; established in 2-15-2001, ~~for administrative purposes only as provided in 2-15-121, except as provided in subsection (1)(b) of this section except as provided in subsections (1)(b) and (1)(c) of this section.~~

~~(b) The council may hire its own personnel and independently administer the conduct of its business, and 2-15-121(2)(a), (2)(d), and (3)(a) do not apply. The council shall coordinate with the department of justice to hire the bureau chief of the public safety officer standards and training bureau.~~

~~(c) The council maintains its independent and quasi-judicial authority and duties provided for in 44-4-403.~~

(2) The council may adopt rules to implement the provisions of Title 44, chapter 4, part 4. Rules must be adopted pursuant to the Montana Administrative Procedure Act.

(3) *The department of justice and the public safety officer standards and training council shall report to the law and justice interim committee.*

Section 5. Section 2-18-101, MCA, is amended to read:

"2-18-101. Definitions. As used in parts 1 through 3 and part 10 of this chapter, the following definitions apply:

(1) "Agency" means a department, board, commission, office, bureau, institution, or unit of state government recognized in the state budget.

(2) "Base salary" means the base hourly pay rate annualized paid to an employee, excluding overtime and longevity.

(3) "Benchmark" means a representative position in a specific occupation that is used to illustrate the application of the job evaluation factor used to classify the occupation.

(4) “Blue-collar pay plan” means a strictly negotiated classification and pay plan consisting of unskilled or skilled labor, trades, and crafts occupations.

(5) “Board” means the board of personnel appeals established in 2-15-1705.

(6) “Broadband classification plan” means a job evaluation method that measures the difficulty of the work and the knowledge or skills required to perform the work.

(7) “Broadband pay plan” means a pay plan using a pay hierarchy of broad pay bands based on a classification plan, including market midpoint and occupational wage ranges.

(8) “Compensation” means the annual or hourly wage or salary and includes the longevity allowance provided in 2-18-304 and leave and holiday benefits provided in part 6 of this chapter.

(9) “Competencies” means sets of measurable and observable knowledge, skills, and behaviors that contribute to success in a position.

(10) “Department” means the department of administration created in 2-15-1001.

(11) (a) Except in 2-18-306, “employee” means any state employee other than an employee excepted under 2-18-103 or 2-18-104.

(b) The term does not include a student intern.

(12) “Job evaluation factor” means a measure of the complexities of the predominant duties of a position.

(13) “Job sharing” means the sharing by two or more persons of a position.

(14) “Market midpoint” means the median base salary that other employers pay to employees in comparable occupations as determined by the department’s salary survey of the relevant labor market.

(15) “Occupation” means a generalized family of positions having substantially similar duties and requiring similar qualifications, education, and experience.

(16) “Occupational wage range” means a range of pay, including a minimum, market midpoint, and maximum salary, for a specific occupation that is most consistent with the pay being offered by competing employers for fully competent employees within that occupation. The salary for an employee may be less than the minimum salary.

(17) “Pay band” means a wide salary range covering a number of different occupations. Pay bands are used for reporting and analysis purposes only.

(18) “Pay progression” means a process by which an employee’s compensation may be increased, based on documented factors determined by the department, to bring the employee’s compensation to a higher rate within the occupational wage range of the employee.

(19) “Permanent employee” means an employee who is designated by an agency as permanent, who was hired through a competitive selection process unless excepted from the competitive process by law, and who has attained or is eligible to attain permanent status.

(20) “Permanent status” means the state an employee attains after satisfactorily completing an appropriate probationary period.

(21) “Personal staff” means those positions occupied by employees appointed by the elected officials enumerated in Article VI, section 1, of the Montana constitution or by the public service commission as a whole.

(22) “Position” means a collection of duties and responsibilities currently assigned or delegated by competent authority, requiring the full-time, part-time, or intermittent employment of one person.

(23) “Program” means a combination of planned efforts to provide a service.

(24) “Seasonal employee” means a permanent employee who is designated by an agency as seasonal, who performs duties interrupted by the seasons, and

who may be recalled without the loss of rights or benefits accrued during the preceding season.

(25) "Short-term worker" means a person who:

(a) may be hired by an agency without using a competitive hiring process for an hourly wage established by the agency;

(b) may not work for the agency for more than 90 days in a continuous 12-month period;

(c) is not eligible for permanent status;

(d) may not be hired into a permanent position by the agency without a competitive selection process;

(e) is not eligible to earn the leave and holiday benefits provided in part 6 of this chapter; and

(f) may be discharged without cause.

(26) "Student intern" means a person who:

(a) has been accepted in or is currently enrolled in an accredited school, college, or university and may be hired by an agency in a student intern position without using a competitive selection process;

(b) is not eligible for permanent status;

(c) is not eligible to become a permanent employee without a competitive selection process;

(d) must be covered by the hiring agency's workers' compensation insurance;

(e) is not eligible to earn the leave and holiday benefits provided for in part 6 of this chapter; and

(f) may be discharged without cause.

(27) (a) "Telework" means a flexible work arrangement where a designated employee may work from:

(i) home within the state of Montana or an alternative worksite within the state of Montana 1 or more days a week instead of physically traveling to a central workplace; or

(ii) *an alternative worksite outside the state of Montana limited to:*

(A) *employees who are mental health professionals as defined in 27-1-1101 involved in psychological or psychiatric evaluations and treatment;*

(B) *employees engaged in providing services related to information technology as defined in 2-17-506; or*

(C) *employees who are medical professionals involved in medical evaluations and treatment.*

(b) *The office of budget and program planning must approve a designated employee's alternative worksite outside the state of Montana before the employee begins work.*

(28) "Temporary employee" means an employee who:

(a) is designated as temporary by an agency for a definite period of time not to exceed 12 months;

(b) performs duties on a temporary basis;

(c) is not eligible for permanent status;

(d) is terminated at the end of the employment period; and

(e) is not eligible to become a permanent employee without a competitive selection process."

Section 6. Section 3-1-710, MCA, is amended to read:

"3-1-710. (Temporary) Working interdisciplinary network of guardianship stakeholders. (1) There is a working interdisciplinary network of guardianship stakeholders to provide ongoing evaluation of Montana laws, services, and practices related to adult guardianship and conservatorship.

(2) The network consists of nine members appointed by the chief justice of the Montana supreme court as follows, in a manner that reflects a geographic balance:

- (a) a representative of a district court;
- (b) a representative of the department of public health and human services who works in the area of adult protective services;
- (c) a representative of an advocacy group for individuals with developmental disabilities;
- (d) a representative of an advocacy group for senior citizens;
- (e) a professional guardian or conservator;
- (f) an unpaid guardian or conservator;
- (g) a member of a volunteer guardianship council;
- (h) a member of the Montana state bar association; and
- (i) a health care provider with experience in working with patients in need of a guardianship.

(3) The chief justice shall appoint the presiding officer.

(4) After the initial appointments, members ~~shall~~ *may* serve staggered 4-year terms and may be reappointed. Initial appointments must be for terms of at least 2 years.

~~(5) The network shall meet at least four times a year. Members may be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503. (Terminates June 30, 2023--sec. 8, Ch. 241, L. 2017.)~~

Section 7. Section 3-1-711, MCA, is amended to read:

“3-1-711. (Temporary) Duties of working interdisciplinary network of guardianship stakeholders. The working interdisciplinary network of guardianship stakeholders shall:

(1) identify strengths and weaknesses in the state’s current system of adult guardianship and conservatorship;

(2) identify less restrictive decisionmaking options for incapacitated persons;

(3) review national standards on guardianship and conservatorship practices and recommend standards for adoption in Montana;

(4) propose methods of training guardians and conservators in best practices or adopted standards;

(5) recommend or conduct other outreach, education, and training as needed; *and*

~~(6) make recommendations to the supreme court administrator regarding grants to be awarded as provided in 3-1-712; and~~

~~(7)~~(6) serve as an ongoing problem-solving mechanism to enhance the quality of care and quality of life for adults who are or may soon be in the guardianship or conservatorship system. (Terminates June 30, 2023--sec. 8, Ch. 241, L. 2017.)”

Section 8. Section 46-1-1104, MCA, is amended to read:

“46-1-1104. Drug treatment court structure. (1) Each judicial district or court of limited jurisdiction may establish a drug treatment court under which drug offenders may be processed to address an identified substance abuse problem as a condition of pretrial release, pretrial diversion under 46-16-130, probation, incarceration, parole, or other release from a detention or correctional facility.

(2) Participation in drug treatment court is voluntary and is subject to the consent of the prosecutor, the defense attorney, and the court pursuant to a written agreement.

(3) *A drug treatment court and governmental entities that refer an offender to a drug treatment court shall adopt an evidence-based program evaluation tool*

that measures how closely the drug treatment court programs meet the known principles of effective intervention. The tool must measure program content and capacity to ensure the delivery of effective interventions for offenders.

(3)(4) A drug treatment court may grant reasonable incentives under a written agreement if the court finds that a drug offender is performing satisfactorily in drug treatment court, is benefiting from education, treatment, and rehabilitation, has not engaged in criminal conduct, and has not violated the terms and conditions of the agreement. Reasonable incentives may include but are not limited to:

- (a) graduation certificates;
- (b) early graduation;
- (c) fee reduction or waiver of fees;
- (d) record expungement of the underlying case; or
- (e) reduced contact with a probation officer.

(4)(5) The court may impose reasonable sanctions under the agreement, including incarceration or termination from the drug treatment court, if the court finds that the drug offender is not performing satisfactorily in drug treatment court, is not benefiting from education, treatment, or rehabilitation, has engaged in conduct rendering the offender unsuitable for the program, has otherwise violated the terms and conditions of the agreement, or is for any reason unable to participate. Sanctions may include but are not limited to:

- (a) a short-term jail sentence;
- (b) fines;
- (c) extension of time in the program;
- (d) peer review;
- (e) geographical restrictions;
- (f) termination; or
- (g) contempt of court.

(5)(6) Upon successful completion of drug treatment court, a drug offender's case must be disposed of by the judge in the manner prescribed by the agreement and by the applicable policies and procedures adopted by the drug treatment court. This may include but is not limited to pretrial diversion under 46-16-130, dismissal of criminal charges, probation, deferred sentencing, suspended sentencing, or a reduced period of incarceration. A drug offender who successfully completes the program may be given credit for the time the offender served in the drug treatment program by the judge upon disposition.

(6)(7) Each local jurisdiction that intends to establish a drug treatment court or to continue the operation of an existing drug treatment court shall establish a local drug treatment court team.

(7)(8) The drug treatment court team shall, when practicable, conduct a staff meeting prior to each drug treatment court session to discuss and provide updated information regarding drug offenders. After determining the offender's progress or lack of progress, the court, with input from the drug treatment court team, shall determine the appropriate incentive or sanction to be applied.

(8)(9) The provisions of this part apply only to offenders who qualify for participation based on qualifications established by each drug treatment court. The provisions of this part do not apply to drug offenders who have been convicted of a sexual offense, as defined in 46-23-502. This part does not confer a right or expectation of a right to participate in a drug treatment court and does not obligate a drug treatment court to accept any offender. The establishment of a drug treatment court may not be construed as limiting the discretion of a prosecutor to act on any criminal case that the prosecutor considers advisable to prosecute. Each drug treatment court judge may establish rules and may

make special orders and necessary rules that do not conflict with rules adopted by the Montana supreme court.

(9)(10) Each drug offender shall contribute to the cost of drug treatment court in accordance with 46-1-1112(2).

(10)(11) A drug treatment court coordinator is responsible for the general administration of a drug treatment court under the direction of the drug treatment court judge.

(11)(12) The supervising agency shall timely forward information to the drug treatment court concerning the drug offender's progress and compliance with any court-imposed terms and conditions.

(12)(13) A department of corrections probation and parole officer may participate in a drug treatment court team if authorized by the department. The department may authorize participation if it determines, in its discretion, that the caseloads of local probation and parole officers permit participation. If necessitated by a change in caseloads, the department may withdraw authorization for participation by its probation and parole officers in a drug treatment court. The department of corrections may not authorize its probation and parole officers to supervise a participant of a drug treatment court program who has not been convicted of a felony offense and committed to the supervision of the department."

Section 9. Section 46-1-1211, MCA, is amended to read:

"46-1-1211. Treatment and support services. (1) As part of a diagnostic assessment, each jurisdiction shall establish a system to ensure that participants are placed into a clinically approved mental health treatment program. To accomplish this, the program conducting the individual assessment shall make specific recommendations to the mental health treatment court team regarding the type of treatment program and duration necessary so that a participant's individualized needs are addressed. The assessments and recommendations must be based upon evidence-based treatment principles. *The mental health treatment court and governmental entities that refer an offender to a mental health treatment court shall adopt an evidence-based program evaluation tool that measures how closely the mental health treatment court programs meet the known principles of effective intervention. The tool must measure program content and capacity to ensure the delivery of effective interventions for offenders.* Treatment recommendations accepted by the mental health treatment court pursuant to this part must be considered to be reasonable and necessary *and be evidence-based or research-driven.*

(2) An adequate continuum of care for participants must be established in response to this part.

(3) The mental health treatment court shall, when practicable, ensure that one agency may not provide both assessment and treatment services for the mental health treatment court to avoid potential conflicts of interest or the appearance that a diagnostic assessment agency might benefit by determining that a participant is in need of the particular form of treatment that the agency provides.

(4) A mental health treatment court making a referral for mental health services or substance abuse treatment shall refer the participant to a program that is licensed, certified, or approved by the court.

(5) The court shall determine which treatment programs are authorized to provide the recommended treatment to participants. The relationship between the treatment program and the court must be governed by a memorandum of understanding, which must include the timely reporting of the participant's progress or lack of progress to the mental health treatment court."

Section 10. Section 46-12-211, MCA, is amended to read:

“46-12-211. Plea agreement procedure – use of two-way electronic audio-video communication. (1) The prosecutor and the attorney for the defendant, or the defendant when acting pro se, may engage in discussions with a view toward reaching an agreement that, upon the entering of a plea of guilty or nolo contendere to a charged offense or to a lesser or related offense, the prosecutor will do any of the following:

(a) move for dismissal of other charges;

(b) agree that a specific sentence is the appropriate disposition of the case;

or

(c) make a recommendation, or agree not to oppose the defendant’s request, for a particular sentence, with the understanding that the recommendation or request may not be binding upon the court.

(2) Subject to the provisions of subsection (5), if a plea agreement has been reached by the parties, the court shall, on the record, require a disclosure of the agreement in open court or, on a showing of good cause in camera, at the time that the plea is offered. If the agreement is of the type specified in subsection (1)(a) or (1)(b), the court may accept or reject the agreement or may defer its decision as to the acceptance or rejection until there has been an opportunity to consider ~~the~~ *a* presentence report, *if requested by the court pursuant to 46-18-111*. If the agreement is of the type specified in subsection (1)(c), the court shall advise the defendant that, if the court does not accept the recommendation or request, the defendant nevertheless has no right to withdraw the plea.

(3) If the court accepts a plea agreement, the court shall inform the defendant that it will embody in the judgment and sentence the disposition provided for in the plea agreement.

(4) If the court rejects a plea agreement of the type specified in subsection (1)(a) or (1)(b), the court shall, on the record, inform the parties of this fact and advise the defendant that the court is not bound by the plea agreement, afford the defendant an opportunity to withdraw the plea, and advise the defendant that if the defendant persists in the guilty or nolo contendere plea, the disposition of the case may be less favorable to the defendant than that contemplated by the plea agreement.

(5) For purposes of this section, a disclosure of the agreement through the use of two-way electronic audio-video communication, allowing all of the participants to be heard in the courtroom by all present and allowing the party speaking to be seen, is considered to be a disclosure in open court. Audio-video communication may be used if neither party objects and the court agrees to its use and has informed the defendant that the defendant has the right to object to its use. The audio-video communication must operate as provided in 46-12-201.”

Section 11. Section 46-14-311, MCA, is amended to read:

“46-14-311. Consideration of mental disease or disorder or developmental disability in sentencing. (1) Whenever a defendant is convicted on a verdict of guilty or a plea of guilty or nolo contendere and claims at the time of the omnibus hearing held pursuant to 46-13-110 or, if no omnibus hearing is held, at the time of any change of plea by the defendant that at the time of the commission of the offense of which convicted the defendant was suffering from a mental disease or disorder or developmental disability that rendered the defendant unable to appreciate the criminality of the defendant’s behavior or to conform the defendant’s behavior to the requirements of law, the sentencing court shall consider any relevant evidence presented at the trial and ~~shall~~ *may* also consider the results of the presentence investigation ~~required~~ *requested* pursuant to subsection (2).

(2) Under the circumstances referred to in subsection (1), the sentencing court ~~shall~~ *may* order a presentence investigation and a report on the investigation pursuant to 46-18-111. ~~The~~ *If requested, the* investigation must include a mental evaluation by a person appointed by the director of the department of public health and human services or the director's designee. The evaluation must include an opinion as to whether the defendant suffered from a mental disease or disorder or developmental disability with the effect as described in subsection (1). If the opinion concludes that the defendant did suffer from a mental disease or disorder or developmental disability with the effect as described in subsection (1), the evaluation must also include a recommendation as to the care, custody, and treatment needs of the defendant."

Section 12. Section 46-18-111, MCA, is amended to read:

"46-18-111. Presentence investigation -- when required -- definition.

(1) (a) (i) Upon the acceptance of a plea or upon a verdict or finding of guilty to one or more felony offenses, *except as provided in subsection (1)(d)*, the district court ~~shall~~ *may request and* direct the probation and parole officer to make a presentence investigation and report unless an investigation and report has been provided to the court prior to the plea or the verdict or finding of guilty.

(ii) Unless additional information is required under ~~subsections~~ *subsection* (1)(b), (1)(c), ~~or (1)(d)~~ *(1)(d)*, or (1)(e) or unless more time is required to allow for victim input, a preliminary or final presentence investigation and report, *if requested*, must be available to the court within 30 *business* days of the plea or the verdict or finding of guilty.

(iii) ~~The~~ *If a presentence investigation report has been requested, the* district court shall consider the presentence investigation report prior to sentencing.

(b) (i) If the defendant was convicted of an offense under 45-5-502, 45-5-503, 45-5-504, 45-5-507, 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), 45-5-625, 45-5-627, 45-5-704, 45-5-705, or 45-8-218 or if the defendant was convicted under 46-23-507 and the offender was convicted of failure to register as a sexual offender pursuant to Title 46, chapter 23, part 5, the ~~investigation must include~~ *court shall order* a psychosexual evaluation of the defendant ~~and that includes~~ a recommendation as to treatment of the defendant in the least restrictive environment, considering the risk the defendant presents to the community and the defendant's needs, unless the defendant was sentenced under 46-18-219.

(ii) The evaluation must be completed by a sexual offender evaluator ~~who is a member of the Montana sex offender treatment association or has comparable~~ *has* credentials acceptable to the department of labor and industry ~~and the court~~. The psychosexual evaluation must be made available to the county attorney's office, the defense attorney, the probation and parole officer, and the sentencing judge.

(iii) All costs related to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9. The district court may order subsequent psychosexual evaluations at the request of the county attorney. The requestor of any subsequent psychosexual evaluations is responsible for the cost of the evaluation.

(c) (i) If the defendant was convicted of an offense under 45-5-212(2)(b) or (2)(c), the investigation may include a mental health evaluation of the defendant and a recommendation as to treatment of the defendant in the least restrictive environment, considering the risk the defendant presents to the community and the defendant's needs.

(ii) The evaluation must be completed by a qualified psychiatrist, licensed clinical psychologist, advanced practice registered nurse, or other professional with comparable credentials acceptable to the department of labor and industry. The mental health evaluation must be made available to the county attorney's office, the defense attorney, the probation and parole officer, and the sentencing judge.

(iii) All costs related to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9.

(d) *If the defendant is convicted of a violent offense, as defined in 46-23-502, or if the defendant is convicted of a crime for which a victim or entity may be entitled to restitution, and the amount of restitution is not contained in a plea agreement, the court shall order a presentence investigation.*

(d)(e) When, pursuant to 46-14-311, the court has ordered a presentence investigation and a report pursuant to this section, the mental evaluation required by 46-14-311 must be attached to the presentence investigation report and becomes part of the report. The report must be made available to persons and entities as provided in 46-18-113.

(2) ~~The court shall order a presentence investigation report unless the court makes a finding that a report is unnecessary. Unless the court makes that finding, a defendant convicted of any offense not enumerated in subsection (1) that may result in incarceration for 1 year or more may not be sentenced before a written presentence investigation report by a probation and parole officer is presented to and considered by the district court. The district court may order a presentence investigation for a defendant convicted of a misdemeanor only if the defendant was convicted of a misdemeanor that the state originally charged as a sexual or violent offense as defined in 46-23-502.~~

(3) The defendant shall pay to the department of corrections a \$50 fee at the time that the report is completed, unless the court determines that the defendant is not able to pay the fee within a reasonable time. The fee may be retained by the department and used to finance contracts entered into under 53-1-203(5).

(4) For the purposes of 46-18-112 and this section, "probation and parole officer" means:

(a) a probation and parole officer who is employed by the department of corrections pursuant to 46-23-1002; or

(b) an employee of the department of corrections who has received specific training or who possesses specific expertise to make a presentence investigation and report but who is not required to be licensed as a probation and parole officer by the public safety officer standards and training council created in 2-15-2029."

Section 13. Section 46-18-112, MCA, is amended to read:

"46-18-112. Content of presentence investigation report.

(1) Whenever an investigation is ~~required~~ *requested by the court*, the probation and parole officer shall promptly inquire into and report upon:

(a) the defendant's characteristics, circumstances, needs, and potentialities, as reflected in a validated risk and needs assessment;

(b) the defendant's criminal record and social history;

(c) the circumstances of the offense;

(d) the time of the defendant's detention for the offenses charged;

(e) the harm caused, as a result of the offense, to the victim, the victim's immediate family, and the community; and

(f) the victim's pecuniary loss, if any. The officer shall make a reasonable effort to confer with the victim to ascertain whether the victim has sustained a pecuniary loss. If the victim is not available or declines to confer, the officer shall record that information in the report.

(2) *The following information pertaining to the defendant may also be included or considered in the report:*

- (a) *prior criminal history;*
- (b) *probation or parole history;*
- (c) *official version of the offense or offenses;*
- (d) *custody status;*
- (e) *pending cases or charges against the defendant;*
- (f) *probation officer recommendations;*
- (g) *gang affiliation;*
- (h) *background and ties to the community;*
- (i) *history of substance use disorder;*
- (j) *physical and mental health;*
- (k) *employment history and status;*
- (l) *education history; and*
- (m) *prescreening and placement options.*

(2)(3) All local and state mental and correctional institutions, courts, and law enforcement agencies shall furnish, upon request of the officer preparing a presentence investigation, the defendant's criminal record and other relevant information.

(3)(4) The court may, in its discretion, require that the presentence investigation report include a physical and mental examination of the defendant.

(4)(5) Upon sentencing, the court shall forward to the sheriff all information contained in the presentence investigation report concerning the physical and mental health of the defendant, and the information must be delivered with the defendant as required in 46-19-101."

Section 14. Section 46-18-242, MCA, is amended to read:

"46-18-242. Investigation and report of victim's loss. (1) Whenever the court believes that a victim may have sustained a pecuniary loss or whenever the prosecuting attorney requests, the court shall order the probation officer, restitution officer, or other designated person to include in the presentence investigation and report *if requested pursuant to 46-18-111*:

- (a) a list of the offender's assets; and
- (b) an affidavit that specifically describes the victim's pecuniary loss and the replacement value in dollars of the loss, submitted by the victim.

(2) When a presentence report is not ~~authorized or~~ requested, the court shall accept evidence of the victim's loss at the time of sentencing."

Section 15. Section 53-6-1312, MCA, is amended to read:

"53-6-1312. (Temporary) Health care services payment schedules.

(1) The department of corrections and the department of public health and human services shall reimburse health care service for individuals identified in subsection (2) at the rates adopted by the department for the medicaid program under Title 53, chapter 6, part 1, if the health care services are not otherwise covered by medicaid, medicare, a health insurer, or another private or governmental program that pays for health care costs.

(2) This section applies to individuals:

- (a) in the custody of the department of corrections; or
- (b) who are residents, by commitment or otherwise, of the Montana state hospital, the Montana mental health nursing care center, the Montana chemical

dependency center, *the state facility at Galen*, or the Montana developmental center. (~~Terminates June 30, 2019--sec. 28, Ch. 368, L. 2015.~~)”

Section 16. Section 53-30-507, MCA, is amended to read:

“53-30-507. Rulemaking authority. (1) The department may adopt rules to implement this part, including rules for the determination of how sites are to be chosen for regional correctional facilities. The rules must provide that in selecting a site, the department shall consider the need for a regional correctional facility in the area, the ability and willingness of a local governmental entity or a corporation to enter into a long-term contract with the department, and the availability of rehabilitative services to inmates. The rules must require that a corporation respond to a request for proposals prepared by the department for a regional correctional facility before a contract may be entered with that corporation.

(2) The department shall adopt rules that include the minimum applicable standards for the construction, operation, and physical condition of a state correctional facility portion of a regional correctional facility and for the security, safety, health, treatment, and discipline of persons confined in a state correctional facility portion of a regional correctional facility. The rules must require that a privately operated or privately owned and operated state correctional facility portion of a regional correctional facility conform to applicable American correctional association and national commission on correctional health care standards.

(3) (a) The department shall adopt rules pursuant to Title 2, chapter 4, that specify a per diem rate that must be paid to a regional correctional facility for the confinement of persons in the state correctional facility portion of the regional correctional facility.

(b) The rules adopted pursuant to subsection (3)(a) must include but are not limited to:

- (i) a definition of per diem rate;
- (ii) a method of calculating the per diem rate; and
- (iii) the costs to be included in the per diem rate calculation.

(c) At a minimum, the per diem rate must include compensation for:

(i) direct costs, including budget expenditures directly attributable to confining inmates;

(ii) indirect costs, including budget expenditures that are not directly associated with the confinement of inmates but that are incurred to provide support services for the regional correctional facility, *not to exceed 3% annually*;

(iii) capital costs, ~~including depreciation or a pro rata portion of capital costs incurred; and limited to the following use allowances:~~

(A) *for buildings and improvements, not to exceed 2.5% of acquisition cost for no more than 40 years; and*

(B) *for equipment with an individual acquisition cost of \$5,000 or more, not to exceed 6 2/3% of acquisition cost for no more than 15 years; and*

(iv) other costs that the department determines are necessary, including medical or transportation costs.

(d) The department shall determine by rule the costs that are not allowable as part of a per diem rate. Unallowable costs must include programs and services that do not have a direct benefit to persons confined in the regional correctional facility and depreciation for capital improvements paid for by the department and depreciation for equipment used in providing support services.

(e) A population factor must be included in the per diem rate to allow for accurate compensation based on the number of inmates confined in the regional correctional facility.

(f) The rules must provide for billing procedures and must allow for review of the per diem rate at least once each fiscal year. When reviewing the per diem rate, the department shall accept public comment that must be considered when the department is determining the accuracy of the per diem rate for the next fiscal year.

~~(4) For the biennium beginning July 1, 2017, the department may pay to a regional correctional facility no more than the rate it paid to that facility on December 6, 2016. Beginning July 1, 2019, the regional correctional facility and the department must mutually agree on any personal services increases or nonroutine purchases exceeding a total of \$5,000 in a fiscal year."~~

Section 17. Section 28, Chapter 368, Laws of 2015, is amended to read:

"Section 28. Termination. (1) [This act], *except [section 9]*, terminates June 30, 2019.

(2) The department may reapply for the same waiver received to implement the Montana Health and Economic Livelihood Partnership Act program if the waiver expires before June 30, 2019."

Section 18. Repealer. The following section of the Montana Code Annotated is repealed:

3-1-712. Grants for public guardianship programs.

Section 19. Fund transfers. (1) By June 30, 2019, the state treasurer shall transfer \$4,353,000 to the general fund from the account established in 30-14-143.

(2) By June 30, 2019, the state treasurer shall transfer the following amounts from the general fund:

(a) \$1,553,000 to the pretrial diversion program state special revenue account established in [section 1]; and

(b) \$300,000 to the legislative committees and activities state special revenue account established in [section 2];

(c) \$250,000 to a state special revenue account to the credit of the state library; and

(d) \$2,000,000 to the treatment court support account established in [section 3 of House Bill No. 654].

Section 20. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 46, and the provisions of Title 46 apply to [section 1].

(2) [Section 3] is intended to be codified as an integral part of Title 2, chapter 15, part 20, and the provisions of Title 2, chapter 15, part 20, apply to [section 3].

Section 21. Coordination instruction. If [this act], [section 1 of Senate Bill No. 352 funding an interdiction team], and [House Bill No. 2] are passed and approved, then the state special revenue appropriations for the department of justice, Montana Highway Patrol, in [House Bill No. 2] is reduced by \$300,206 for the fiscal year beginning July 1, 2019, and by \$299,336 for the fiscal year beginning July 1, 2020.

Section 22. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2019.

(2) [Sections 17 and 19 through 22] are effective on passage and approval.

Section 23. Termination. [Sections 3 and 4] terminate June 30, 2021.

Approved May 10, 2019

CHAPTER NO. 457

[HB 719]

AN ACT ESTABLISHING THE JEANNETTE RANKIN MEMORIAL HIGHWAY IN MISSOULA COUNTY; DIRECTING THE DEPARTMENT OF TRANSPORTATION TO INSTALL SIGNS AT THE LOCATION AND TO INCLUDE THE MEMORIAL HIGHWAY ON THE NEXT PUBLICATION OF THE STATE HIGHWAY MAP; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Jeannette Rankin was born near Missoula, Montana, on June 11, 1880. She grew up on a ranch, which she helped to maintain, and enjoyed the outdoor Montana lifestyle many of us cherish; and

WHEREAS, Jeannette Rankin studied at the University of Montana, graduating in 1902 with a Bachelor of Science degree in biology; and

WHEREAS, Jeannette Rankin worked as a social worker before becoming involved in the women's suffrage movement; and

WHEREAS, Jeannette Rankin's advocacy work in Montana was instrumental in granting women the unrestricted right to vote in Montana in 1914; and

WHEREAS, Jeannette Rankin was significant in initiating legislation that eventually became the 19th Amendment to the U.S. Constitution, granting unrestricted voting rights to women; and

WHEREAS, Jeannette Rankin made history as the first woman to hold federal office in the United States when she was elected to serve in the U.S. Congress; and

WHEREAS, Jeannette Rankin was elected to the U.S. Congress in 1916 and again in 1940; and

WHEREAS, Jeannette Rankin passed away in 1973 leaving a legacy of advocacy and freedom for future generations; and

WHEREAS, the 66th Legislature of the State of Montana honors Jeannette Rankin for her exemplary life of service and leadership.

Be it enacted by the Legislature of the State of Montana:

Section 1. Jeannette Rankin memorial highway. (1) There is established the Jeannette Rankin memorial highway on existing interstate 90 from mile marker 101 to mile marker 106.

(2) The department shall design and install appropriate signs marking the location of the Jeannette Rankin memorial highway.

(3) Maps that identify roadways in Montana must be updated to include the location of the Jeannette Rankin memorial highway when the department updates and publishes the state maps.

Section 2. Appropriation. There is appropriated \$1 for the biennium beginning July 1, 2019, from the state general fund to the department of transportation for the purpose of [section 1].

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 60, chapter 1, part 2, and the provisions of Title 60, chapter 1, part 2, apply to [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

Approved May 10, 2019

CHAPTER NO. 458

[HB 722]

AN ACT ALLOWING TRANSFERS OF HARD ROCK MINING PERMITS UNDER CERTAIN CONDITIONS; PROVIDING FOR SUSPENSION OF PERMITS AND SPENDING OF FORFEITED BONDS; CREATING A FEE; AMENDING SECTIONS 82-4-338, 82-4-340, 82-4-341, AND 82-4-353, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 82-4-338, MCA, is amended to read:

“82-4-338. Performance bond. (1) (a) An applicant for an exploration license or operating permit shall file with the department a bond payable to the state of Montana with surety satisfactory to the department in the sum to be determined by the department of not less than \$200 for each acre or fraction of an acre of the disturbed land, conditioned upon the faithful performance of the requirements of this part, the rules of the board, and the permit. In lieu of a bond, the applicant may file with the department a cash deposit, an assignment of a certificate of deposit, an irrevocable letter of credit, or other surety acceptable to the department. The bond may not be less than the estimated cost to the state to ensure compliance with Title 75, chapters 2 and 5, this part, the rules, and the permit, including the potential cost of department management, operation, and maintenance of the site upon temporary or permanent operator insolvency or abandonment, *during a suspension authorized pursuant to 82-4-341(8)(b)(ii) or until full bond liquidation can be effected.*

(b) A public or governmental agency may not be required to post a bond under the provisions of this part.

(c) A blanket performance bond covering two or more operations may be accepted by the department. A blanket bond must adequately secure the estimated total number of acres of disturbed land.

(d) (i) For an exploration license or operating permit authorizing activities on federal land within the state, the department may accept a bond payable to the state of Montana and the federal agency administering the land. The bond must provide at least the same amount of financial guarantee as required by this part.

(ii) The bond must provide that the department may forfeit the bond without the concurrence of the federal land management agency. The bond may provide that the federal land management agency may forfeit the bond without the concurrence of the department. Upon forfeiture by either agency, the bond must be payable to the department and may also be payable to the federal land management agency. If the bond is payable to the department and the federal land management agency, the department, before accepting the bond, shall enter into an agreement or memorandum of understanding with the federal land management agency providing for administration of the bond funds in a manner that will allow the department to provide for compliance with the requirements of this part, the rules adopted under this part, and the permit.

(iii) The department may not enter into an agreement or memorandum of understanding with a federal land management agency that would require the department to impose requirements on an operator that are more stringent than state law and rules.

(2) (a) The department may calculate one or more reclamation plan components within its jurisdiction with the assistance of one or more third-party contractors selected jointly by the department and the applicant

and compensated by the applicant when, based on relevant past experience, the department determines that additional expertise is necessary to calculate the bond amount for reclamation plan components. The department may contract for assistance pursuant to this subsection in determining bond amounts for the initial bond and for any subsequent bond review and adjustment. The mine owner is responsible for the first \$5,000 in contractor services provided under this subsection. The mine owner and the department are each responsible for 50% of any amount over \$5,000.

(b) To select a third-party contractor as authorized in subsection (2)(a), the department shall prepare a list of no fewer than four contractors acceptable to the department and shall provide the applicant with a copy of the list. The applicant shall provide the department with a list of at least 50% of the contractors from the department's list. The department shall select its contractor from the list provided by the applicant.

(3) (a) The department shall conduct an overview of the amount of each bond annually and shall conduct a comprehensive bond review at least every 5 years. The department may conduct additional comprehensive bond reviews if, after modification of a reclamation or operation plan, an annual overview, or an inspection of the permit area, the department determines that an increase of the bond level may be necessary. The department shall consult with the licensee or permittee if a review indicates that the bond level should be adjusted. When determined by the department that the set bonding level of a permit or license does not represent the present costs of compliance with this part, the rules, and the permit, the department shall modify the bonding requirements of that permit or license. The licensee or permittee must have 60 days to negotiate the preliminary bond determination with the department, at the end of which time period the department shall issue the proposed bond determination. The department shall give the licensee or permittee a copy of the bond calculations that form the basis for the proposed bond determination and, for operating permits, publish notice of the proposed bond determination in a newspaper of general circulation in the county in which the operation is located. The department shall issue a final bond determination in 30 days. Unless the licensee or permittee requests a hearing under subsection (3)(b), the licensee or permittee shall post bond with the department in the amount represented by the final bond determination no later than 30 days after issuance of the final bond determination. If the licensee or permittee demonstrates that, through the exercise of reasonable diligence, the licensee or permittee will not be able to post the bond within 30 days, the department shall grant a 30-day extension of the deadline.

(b) The permittee or any person with an interest that may be adversely affected may obtain a contested case hearing before the board under the provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, on the final bond determination by filing with the department, within 30 days of the issuance of the final bond determination, a written request for hearing stating the reason for the request. The request for hearing must specify the amount of bond increase, if any, that the licensee or permittee considers appropriate and state the reasons that the licensee or permittee considers the department's final bond determination to be excessive. As a condition precedent to any right to request a hearing, the licensee or permittee shall post bond with the department in the amount of the bond increase that the licensee or permittee has stated is appropriate in the request for hearing or the amount that is one-half of the increase contained in the department's final bond determination, whichever amount is greater. If the board determines that additional bond is necessary, the licensee or permittee shall post bond in

the amount determined by the board within 30 days of receipt of the board's decision. If the licensee or permittee demonstrates that, through the exercise of reasonable diligence, the licensee or permittee will not be able to post the bond within 30 days, the department shall grant a reasonable extension of the deadline.

(c) If a licensee or permittee fails to post bond in accordance with subsection (3)(a) or (3)(b) in the required amounts by the required deadlines, the license or permit is suspended by operation of law and the licensee or permittee shall immediately cease mining and exploration operations until the required bond is posted with and approved by the department.

(4) A bond filed in accordance with the provisions of this part may not be released by the department until the provisions of this part, the rules adopted pursuant to this part, and the permit have been fulfilled.

(5) A bond filed for an operating permit obtained under 82-4-335 may not be released or decreased until the public has been provided an opportunity for a hearing and a hearing has been held if requested. The department shall provide reasonable statewide and local notice of the opportunity for a hearing, including but not limited to publishing the notice in newspapers of general daily circulation.

(6) Except as provided in subsection (7), all bonds required in accordance with the provisions of this section must be based upon reasonably foreseeable activities that the applicant may conduct in order to comply with conditions of an operating permit or license. Bonds may be required only for anticipated activities as described in subsection (1). Only those activities that themselves or in conjunction with other activities have a reasonable possibility of occurring may be bonded. Bond calculations, including calculations for the initial bond or for subsequent bond reviews and adjustments, may not include amounts for any occurrence or contingency that is not a reasonably foreseeable result of any activity conducted by the applicant.

(7) (a) If the department determines, based on unanticipated circumstances that are discovered following the issuance of a mining permit, that a substantial and imminent danger to public health, public safety, or the environment exists or that there is a reasonable probability that a violation of water quality standards will occur, the department may require an operator to submit an amended reclamation plan to address the danger and to post a temporary bond to guarantee the performance of the amended portion of the reclamation plan. The temporary bond may only be required if the anticipated costs associated with the plan amendment would increase the total bond amount for the current plan by more than 10%, as determined in subsection (7)(b).

(b) (i) In determining the need for the temporary bond and the amount of the temporary bond under subsection (7)(a), the department shall select a third-party contractor in consultation with the operator pursuant to subsection (7)(b)(ii) to provide:

(A) a technical engineering analysis and report on the substantial and imminent danger to public health, public safety, or the environment identified in subsection (7)(a); and

(B) the estimated costs of addressing the potential danger in order to establish the amount of the temporary bond.

(ii) The department shall provide the operator with a list of at least four qualified third-party contractors. The operator shall select two qualified third-party contractors from that list. The department shall select its contractor from the list provided by the operator. The operator shall reimburse the department for the reasonable costs of the third-party contractor.

(c) An approved interim amended reclamation plan and interim bond must remain in effect until the earlier of:

(i) the date that a revised reclamation plan is approved pursuant to 82-4-337 and a permanent bond for the revised reclamation plan is submitted and accepted pursuant to this section; or

(ii) 2 years following the date of submission of a complete application pursuant to 82-4-337 to modify the reclamation plan provision or remedy the conditions that created the need to amend the reclamation plan unless the department approves or denies the complete application within 2 years of submission. The applicant may agree to an extension of this deadline.

(d) Except as provided in subsection (8), the process provided for in this subsection (7) is not subject to the provisions of Title 75, chapter 1.

(8) (a) In determining whether to require amendment of a reclamation plan under subsection (7)(a), the department shall prepare or require the permittee to prepare a written analysis of changes in the reclamation plan that may eliminate or mitigate to an acceptable level the environmental condition. The analysis must include an assessment of the effectiveness of the changes and any potential negative environmental impacts of the changes. The department shall prepare an environmental impact statement pursuant to Title 75, chapter 1, only if the department determines that the changes would not mitigate the condition to an acceptable level or may have potentially significant negative environmental impacts.

(b) If the department determines that preparation of an environmental impact statement is necessary, the permittee shall pay the department's costs pursuant to 75-1-205.

(9) At the applicant's discretion, bonding in addition to that required by this section may be posted. These unobligated bonds may, on the applicant's request, be applied to future bonds required by this section.

(10) (a) If the department determines that there exists at an area permitted or licensed under this part an imminent danger to public health, public safety, or the environment caused by a violation of this part, the rules adopted pursuant to this part, or the permit or license and if the permittee or licensee fails or refuses to expeditiously abate the danger, the department may immediately suspend the permit or license, enter the site, and abate the danger. The department may thereafter institute proceedings to revoke the license or permit, declare the permittee or licensee in default, and forfeit a portion of the bond, not to exceed \$150,000 or 10% of the bond, whichever is less, to be used to abate the danger. The department shall notify the surety of the forfeiture and the forfeiture amount by certified mail, and the surety shall pay the forfeiture amount to the department within 30 days of receipt of the notice. The department shall, as a condition of any termination of the suspension and revocation proceedings, require that the permittee or licensee reimburse the surety, with interest, for any amount paid to and expended by the department pursuant to this subsection (10) and for the actual cost of the surety's expenses in responding to the department's forfeiture demand.

(b) If the department is unable to permanently abate the imminent danger using the amount forfeited under subsection (10)(a), the department may forfeit additional amounts under the procedure provided in subsection (10)(a).

(c) The department shall return to the surety any money received from the surety pursuant to this subsection (10) and not used by the department to abate the imminent danger. The amount not returned to the surety must be credited to the surety and reduces the penal amount of the bond on a dollar-for-dollar basis.

(d) Any interest accrued on bond proceeds that is not required to abate the imminent danger determined in subsection (10)(a) must be returned to the surety, unless otherwise agreed to in writing by the surety.

(11) If a bond is terminated as a result of the action or inaction of a licensee or permittee or is canceled or otherwise terminated by the surety issuing the bond and the licensee or permittee fails to post a new bond for the entire amount of the terminated bond within 30 days following the notice of termination provided to the department, then the license or permit must be immediately suspended without further action by the department."

Section 2. Section 82-4-340, MCA, is amended to read:

"82-4-340. Successor operator. (1) When one operator succeeds to the interest of another in any uncompleted operation by sale, assignment, lease, or otherwise, the department may release the first operator from the duties imposed upon the operator by this part ~~as to such operation~~, provided that both operators ~~have complied~~ *comply* with the requirements of this part and the successor operator assumes the duty of the former operator to complete the reclamation of the land, in which case the department shall transfer the permit to the successor operator upon approval of the successor operator's bond as required under this part.

(2) *For an operation with a forfeited bond where the department holds a suspended permit pursuant to 82-4-341(8) the department may transfer the permit to a successor operator provided that the successor operator:*

(a) complies with the requirements of this part; and

(b) assumes the duty of the former operator to complete reclamation and submits:

(i) any additional bond required under 82-4-338; and

(ii) a \$2,000 fee."

Section 3. Section 82-4-341, MCA, is amended to read:

"82-4-341. Compliance – reclamation by department. (1) The department shall cause the permit area to be inspected at least annually to determine whether the permittee has complied with this part, the rules adopted under this part, or the permit.

(2) The permittee shall proceed with reclamation as scheduled in the approved reclamation plan or as required pursuant to subsection (8) (9). Following written notice by the department noting deficiencies, the permittee shall commence action within 30 days to rectify these deficiencies and shall diligently proceed until the deficiencies are corrected. Deficiencies that also violate other laws that require earlier rectification must be corrected in accordance with the applicable time provisions of those laws. The department may extend performance periods referred to in 82-4-336 and in this section for delays clearly beyond the permittee's control, but only when the permittee is, in the opinion of the department, making every reasonable effort to comply.

(3) Within 30 days after notification by the permittee and when, in the judgment of the department, reclamation of a unit of disturbed land area is properly completed, the department shall provide the public notice and conduct any hearing requested pursuant to 82-4-338. As soon as practicable after notice and hearing, the permittee must be notified in writing and the bond on the area must be released or decreased proportionately to the acreage included within the bond coverage.

(4) The department shall cause the bond to be forfeited if:

(a) reclamation of disturbed land is not pursued in accordance with the reclamation plan and the permittee has not commenced action to rectify deficiencies within 30 days after notification by the department;

(b) reclamation is not properly completed in conformance with the reclamation plan within 2 years after completion or abandonment of operation on any fraction of the permit area or within a longer period that may have been authorized under this part; or

(c) after default by the permittee, the surety either refuses or fails to perform the work to the satisfaction of the department within the time required.

(5) The department shall notify the permittee and the surety by certified mail. If the bond is not paid within 30 days after receipt of the notice, the attorney general, upon request of the department, shall bring an action on behalf of the state in district court.

(6) The department may, with the staff, equipment, and material under its control or by contract with others, take any necessary actions for required reclamation of the disturbed lands according to the existing reclamation plan or a modified reclamation plan if the department makes a written finding that the modifications are necessary to prevent a violation of Title 75, chapter 2 or 5, or to prevent a substantial reclamation failure. Except in an environmental emergency, work provided for in this section must be let on the basis of competitive bidding. The department shall keep a record of all necessary expenses incurred in carrying out the work or activity authorized under this section, including a reasonable charge for the services performed by the state's personnel and the state's equipment and materials used. The surety is liable to the state to the extent of the bond. The permittee is liable for the remainder of the cost. Upon completion of the reclamation, the department shall return to the surety any amount not expended, including any unexpended interest accrued on bond proceeds, unless otherwise agreed to in writing by the surety.

(7) In addition to the other liabilities imposed by this part, failure to commence an action to remedy specific deficiencies in reclamation within 30 days after notification by the department or failure to satisfactorily complete reclamation work on any segment of the permit area within 2 years or within a longer period that the department may permit on the permittee's application or on the department's own motion, after completion or abandonment of operations on any segment of the permit area, constitutes sufficient grounds for cancellation of a permit or license and refusal to issue another permit or license to the applicant. A cancellation action may not be effected while an appeal is pending from any ruling requiring the cancellation of a permit or license.

(8) (a) *Except as provided in subsection (8)(e), the department may hold a permit suspended pursuant to 82-4-338 for up to 5 years and place the proceeds from a cash bond forfeited under this section in an interest-bearing account if mining of the ore body identified in the permit or a permit amendment application is not complete.*

(b) *The department may spend bond proceeds from the account during the suspension period to:*

(i) *perform maintenance, monitoring, and other actions required by the permit;*

(ii) *abate imminent danger to public health, public safety, or the environment;*
or

(iii) *abate conditions that violate the provisions of Title 75, chapters 2 and 5, or conditions that may cause violations of those provisions.*

(c) *The department may transfer a permit suspended under this section as provided by 82-4-340. The balance of funds in the account must be retained as a cash bond on behalf of the successor operator.*

(d) The department may revoke a permit suspended under this section if a transfer is not completed within 5 years of the suspension. In the case of a revoked permit, reclamation may proceed pursuant to subsection (6).

(e) The department may extend a suspension up to 6 months if a potential successor operator is exercising reasonable diligence to complete the transfer. If litigation precludes the transfer, the suspension is stayed until the litigation is resolved.

(8)(9) (a) If at the time of bond review pursuant to 82-4-338 no mineral extraction or ore processing has occurred on a mine permit area for the past 5 years, the department shall determine whether further suspension of the operation will create conditions that will cause violations of Title 75, chapter 2 or 5, or significantly impair reclamation of disturbed areas. If the department determines in writing that violations of Title 75, chapter 2 or 5, or significant impairment of reclamation will occur, the department shall notify the permittee that the permittee shall, within a reasonable time specified in the notice, abate the conditions or commence reclamation. The department may grant reasonable extensions of time for good cause shown. If the permittee does not abate the conditions or commence reclamation within the time specified in the notice and any extensions, the department shall order either that the condition be abated or that reclamation be commenced.

(b) The permittee may request a hearing on the order by submitting a written request for hearing within 30 days of receipt of the order. A request for hearing stays the order pending a final decision, unless the department determines in writing that the stay will create an imminent threat of significant environmental harm or will significantly impair reclamation."

Section 4. Section 82-4-353, MCA, is amended to read:

"82-4-353. Administrative remedies – notice – appeals – parties.

(1) Upon receipt of an application for an operating permit, the department shall provide notice of the application by publication in a newspaper of general circulation in the area to be affected by the operation. The notice must be published once a week for 3 successive weeks.

(2) An applicant for a permit or license or for an amendment or revision to a permit or license may request a hearing on a denial of the application by submitting a written request for a hearing within 30 days of receipt of written notice of the denial. The request must state the reason that the hearing is requested.

(3) All hearings and appeals under 82-4-337(4), 82-4-338(3)(b), 82-4-341(7) and (8) (9), 82-4-361, 82-4-362, and subsection (2) of this section must be conducted by the board in accordance with the Montana Administrative Procedure Act. Any person whose interests may be adversely affected as a result of an action taken pursuant to this part may become a party to any proceeding held under this part upon a showing that the person is capable of adequately representing the interests claimed.

(4) As used in this section, "person" means any individual, corporation, partnership, or other legal entity."

Section 5. Effective date. [This act] is effective July 1, 2019.

Section 6. Termination. [This act] terminates June 30, 2026.

Approved May 11, 2019

CHAPTER NO. 459

[SB 338]

AN ACT CREATING THE MONTANA MUSEUMS ACT OF 2020; PROVIDING FUNDING FOR THE MONTANA HERITAGE CENTER; GRANTING AUTHORITY TO CONSTRUCT THE MONTANA HERITAGE CENTER; CREATING THE HISTORIC PRESERVATION GRANT PROGRAM; REVISING THE SALES TAX ON ACCOMMODATIONS AND CAMPGROUNDS; CREATING ACCOUNTS AND ALLOCATING A PORTION OF TAX PROCEEDS TO THEM; PROVIDING RULEMAKING AUTHORITY RELATED TO THE HISTORIC PRESERVATION GRANT PROGRAM; ALLOCATING GRANTS FROM THE HISTORIC PRESERVATION GRANT PROGRAM; REMOVING THE LIMITATION ON VENDOR ALLOWANCES; AMENDING SECTIONS 15-65-121, 15-68-102, 15-68-510, AND 15-68-820, MCA; AMENDING SECTION 2, CHAPTER 560, LAWS OF 2005; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 7] may be cited as the “Montana Museums Act of 2020”.

Section 2. Authorization to construct Montana heritage center.

(1) The department of administration is authorized to construct the Montana heritage center, which may include the remodel of the veterans’ and pioneer memorial building.

(2) The department of administration shall determine the most cost-effective and efficient manner in which to construct the Montana heritage center based on the funding available. The department may construct the Montana heritage center in phases.

(3) This section constitutes legislative consent for the construction of the Montana heritage center within the meaning of 18-2-102.

Section 3. Account – Montana heritage center construction. There is an account in the capital projects fund established in 17-2-102 known as the Montana heritage center construction account. The tax collections allocated in 15-68-820(3)(a) must be deposited in the account until December 30, 2024. The money in the account is authorized to the department of administration and may be used only for capital construction of the Montana heritage center.

Section 4. Account – Montana heritage center operations. There is an account in the state special revenue fund established in 17-2-102 known as the Montana heritage center operations account. The tax collections allocated in 15-68-820(4)(a) must be deposited in the account. The money in the account may be used only for expenses incurred in the operation and maintenance of the Montana heritage center, which may include the veterans’ and pioneer memorial building.

Section 5. Historic preservation grant program – proposals – recommendations. (1) There is a historic preservation grant program established within the department of commerce. A person, association, or representative of a governing unit seeking a historic preservation grant under this section must submit a grant proposal to the department by March 1 of the year preceding the convening of a regular legislative session.

(2) The department shall review all proposals for historic preservation grants in consultation with the tourism advisory council and the state historical preservation office before they are submitted to the legislature.

(3) Consistent with the rules adopted in accordance with [section 6], the department shall make recommendations to the legislature on each proposal submitted to the department.

(4) The department's recommendations to the legislature are advisory.

(5) The department shall present its recommendations to the appropriations committee of the legislature by the 15th day of a regular legislative session.

Section 6. Priorities for funding -- rulemaking. (1) The department of commerce shall make recommendations for grants awarded under the historic preservation grant program to public or private entities for the preservation of historic sites, historical societies, or history museums in the state. The recommendations must be based on competitive criteria created by the department, as guided by the legislature. The criteria may include:

(a) the degree of economic stimulus or economic activity, including job creation and work creation for Montana contractors and service workers;

(b) the purpose of the project, including whether it provides features that establish or enhance security, climate control, or fire protection for museums or address infrastructure, maintenance, or building code issues;

(c) the timing of the project, including access to matching funds, if needed, and approval of permits so that work can be completed without delay;

(d) the historic or heritage value related to the state of Montana;

(e) the successful track record or experience of the organization directing the project; and

(f) the expected ongoing economic benefit to the state as a result of the project completion.

(2) The department of commerce shall adopt rules necessary to implement the historic preservation grant program. In adopting rules, the department shall look to the rules adopted for the treasure state endowment program, the cultural and aesthetic grant program, and other similar state programs. To the extent feasible, the department shall make the rules compatible with those other programs.

Section 7. Historic preservation grant program account. (1) There is an account in the state special revenue fund established in 17-2-102 known as the historic preservation grant program account. The tax collections allocated in 15-68-820(3)(b) and (4)(c) must be deposited in the account.

(2) Money deposited in the account is subject to appropriation by the legislature and may be used only for historic preservation grants to be administered by the department of commerce.

(3) The department shall allocate and disburse historic preservation account funds as appropriated by the legislature.

Section 8. Section 15-65-121, MCA, is amended to read:

"15-65-121. Distribution of tax proceeds. (1) The proceeds of the tax imposed by 15-65-111 must, in accordance with the provisions of 17-2-124, be deposited in an account in the state special revenue fund to the credit of the department. The department may spend from that account in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of 17-2-124 and as provided in subsections (2)(a) through (2)(g) of this section, the department shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds received each reporting period. The department shall distribute the portion of the 4% that was paid with federal funds to the agency that made the in-state lodging expenditure and deposit 30% of the amount deducted less the portion paid with federal funds in the state general fund. The amount of \$400,000 each

year must be deposited in the Montana heritage preservation and development account provided for in 22-3-1004.

(2) The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation, deposited in the state general fund, distributed to agencies that paid the tax with federal funds, or deposited in the heritage preservation and development account must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the Montana historical interpretation state special revenue account, to the Montana historical society, to the university system, to the *state-tribal economic development commission*, and to the department of fish, wildlife, and parks, as follows:

(a) 1% to the Montana historical society to be used for the installation or maintenance of roadside historical signs and historic sites;

(b) 2.5% to the university system for the establishment and maintenance of a Montana travel research program;

(c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that have both resident and nonresident use;

(d) 64.4% to be used directly by the department of commerce;

(e) (i) except as provided in subsection (2)(e)(ii), 22.5% to be distributed by the department to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide; and

(ii) if 22.5% of the proceeds collected annually within the limits of a city, consolidated city-county, resort area, or resort area district exceeds \$35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area district is located, to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-county, resort area, or resort area district;

(f) 0.5% to the state special revenue account provided for in 90-1-135 for use by the state-tribal economic development commission established in 90-1-131 for activities in the Indian tourism region; and

(g) 2.6% to the Montana historical interpretation state special revenue account established in 22-3-115.

(3) If a city, consolidated city-county, resort area, or resort area district qualifies under this section or 15-68-820(5)(b)(iii) for funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit tourism corporation in the region in which the city, consolidated city-county, resort area, or resort area district is located.

(4) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation may be used by the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials.

(5) The tax proceeds received that are transferred to a state special revenue account pursuant to subsections (2)(a) through (2)(e) are statutorily appropriated to the entities as provided in 17-7-502.

(6) The tax proceeds received that are transferred to the Montana historical interpretation state special revenue account pursuant to subsection (2)(g) are subject to appropriation by the legislature.”

Section 9. Section 15-68-102, MCA, is amended to read:

“15-68-102. Imposition and rate of sales tax and use tax – exceptions.

(1) A sales tax of the following percentages is imposed on sales of the following property or services:

- (a) ~~3%~~ 4% on accommodations and campgrounds;
- (b) 4% on the base rental charge for rental vehicles.

(2) The sales tax is imposed on the purchaser and must be collected by the seller and paid to the department by the seller. The seller holds all sales taxes collected in trust for the state. The sales tax must be applied to the sales price.

(3) (a) For the privilege of using property or services within this state, there is imposed on the person using the following property or services a use tax equal to the following percentages of the value of the property or services:

- (i) ~~3%~~ 4% on accommodations and campgrounds;
- (ii) 4% on the base rental charge for rental vehicles.
- (b) The use tax is imposed on property or services that were:

(i) acquired outside this state as the result of a transaction that would have been subject to the sales tax had it occurred within this state;

(ii) acquired within the exterior boundaries of an Indian reservation within this state as a result of a transaction that would have been subject to the sales tax had it occurred outside the exterior boundaries of an Indian reservation within this state;

(iii) acquired as the result of a transaction that was not initially subject to the sales tax imposed by subsection (1) or the use tax imposed by subsection (3)(a) but which transaction, because of the buyer’s subsequent use of the property, is subject to the sales tax or use tax; or

(iv) rendered as the result of a transaction that was not initially subject to the sales tax or use tax but that because of the buyer’s subsequent use of the services is subject to the sales tax or use tax.

(4) For purposes of this section, the value of property must be determined as of the time of acquisition, introduction into this state, or conversion to use, whichever is latest.

(5) The sale of property or services exempt or nontaxable under this chapter is exempt from the tax imposed in subsections (1) and (3).

(6) Lodging facilities and campgrounds are exempt from the tax imposed in subsections (1)(a) and (3)(a)(i) until October 1, 2003, for contracts entered into prior to April 30, 2003, that provide for a guaranteed charge for accommodations or campgrounds.”

Section 10. Section 15-68-510, MCA, is amended to read:

“15-68-510. Vendor allowance. (1) A person filing a timely return under 15-68-502 may claim a quarterly vendor allowance for each permitted location in the amount of 5% of the tax determined to be payable to the state, ~~not to exceed \$1,000 a quarter.~~

(2) The allowance may be deducted on the return.

(3) A person that files a return or payment after the due date for the return or payment may not claim a vendor allowance.”

Section 11. Section 15-68-820, MCA, is amended to read:

“15-68-820. Sales tax and use tax proceeds. (1) Except as provided in ~~subsection~~ *subsections (2) through (6)*, all money collected under this chapter must, in accordance with the provisions of 17-2-124, be deposited by the department into the general fund.

(2) Twenty-five percent of the revenue collected on the base rental charge for rental vehicles under 15-68-102(1)(b) and 15-68-102(3)(a)(ii) must be deposited in the state special revenue fund to the credit of the senior citizen and persons with disabilities transportation services account provided for in 7-14-112.

(3) *Until December 30, 2024, a portion of the revenue collected on the sale or use of accommodations and campgrounds under 15-68-102(1)(a) and (3)(a)(i) must be deposited as follows:*

(a) *20% in the account established in [section 3] for construction of the Montana heritage center; and*

(b) *5% in the account established in [section 7] for historic preservation grants.*

(4) *Starting January 1, 2025, a portion of the revenue collected on the sale or use of accommodations and campgrounds under 15-68-102(1)(a) and (3)(a)(i) must be deposited or distributed as follows:*

(a) *8% in the account established in [section 4] for operation and maintenance of the Montana heritage center;*

(b) *9% distributed as provided in subsection (5); and*

(c) *8% in the account established in [section 7] for historic preservation grants.*

(5) (a) *Before allocating the balance of the tax proceeds in accordance with the provisions of 17-2-124 and as provided in subsection (5)(b) of this section, the department shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 1% of that amount from the tax proceeds received each reporting period. The department shall distribute the portion of the 1% that was paid with federal funds to the agency that made the in-state lodging expenditure and deposit 30% of the amount deducted less the portion paid with federal funds in the state general fund.*

(b) *The balance of the tax proceeds received each reporting period and not distributed to agencies that paid the tax with federal funds must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the department of fish, wildlife, and parks, and to the state-tribal economic development commission as follows:*

(i) *7% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that have both resident and nonresident use;*

(ii) *68.5% to be used directly by the department of commerce;*

(iii) (A) *except as provided in subsection (5)(b)(iii)(B), 24% to be distributed by the department of commerce to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide; and*

(B) *if 24% of the proceeds collected annually within the limits of a city, consolidated city-county, resort area, or resort area district exceeds \$35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area district is located to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-county, resort area, or resort area district; and*

(iv) *0.5% to the state special revenue account provided for in 90-1-135 for use by the state-tribal economic development commission established in 90-1-131 for activities in the Indian tourism region.*

(6) *The tax proceeds received that are transferred to a state special revenue account pursuant to subsection (5)(b) are allocated to the entities."*

Section 12. Allocation from historic preservation grants account.

(1) There is allocated \$800,000 to the department of commerce from the historic preservation grants account established in [section 7] for the biennium beginning July 1, 2019, to finance program grants authorized in subsection (2) as long as there are sufficient funds available in the historic preservation grant program account.

(2) The department shall distribute grants as follows:

(a) \$400,000 to the Daly Mansion to be used for repair of infrastructure and maintenance needs; and

(b) \$400,000 to the Moss Mansion to be used for repair of infrastructure and maintenance needs.

Section 13. Section 2(4), Chapter 560, Laws of 2005, as inserted by section 20, Chapter 478, Laws of 2009, is amended to read:

“(4) It is the intent of the legislature that the department of administration plan and construct a Montana historical society building at the 6th avenue and Roberts street site in Helena, Montana, with the remaining balance of the \$7.5 million of bonds authorized in Chapter 499, Laws of 2005, and the \$30 million in donation and grant authority in this section.”

Section 14. Coordination instruction. If [section 5] of House Bill No. 553 and [this act] are passed and approved, and this act contains a section that amends 15-68-820, then the section amending 15-68-820 is void and 15-68-820 must be amended as follows:

“15-68-820. Sales tax and use tax proceeds. (1) Except as provided in ~~subsection~~ *subsections (2) through (6)*, all money collected under this chapter must, in accordance with the provisions of 17-2-124, be deposited by the department into the general fund.

(2) Twenty-five percent of the revenue collected on the base rental charge for rental vehicles under 15-68-102(1)(b) and 15-68-102(3)(a)(ii) must be deposited in the state special revenue fund to the credit of the senior citizen and persons with disabilities transportation services account provided for in 7-14-112.

(3) (a) *Until December 30, 2024, a portion of the revenue collected on the sale or use of accommodations and campgrounds under 15-68-102(1)(a) and (3)(a)(i) must be deposited as follows:*

(i) *20% in the account established in [section 3 of this act] for construction of the Montana heritage center; and*

(ii) *5% in the account established in [section 7 of this act] for historic preservation grants.*

(4) *Starting January 1, 2025, a portion of the revenue collected on the sale or use of accommodations and campgrounds under 15-68-102(1)(a) and (3)(a)(i) must be deposited or distributed as follows:*

(a) *6% in the account established in [section 4 of this act] for operation and maintenance of the Montana heritage center;*

(b) *6% distributed as provided in subsection (5);*

(c) *6% in the account established in [section 7 of this act] for historic preservation grants; and*

(d) *7% in the account established in [section 5 of House Bill No. 553].*

(5) (a) *Before allocating the balance of the tax proceeds in accordance with the provisions of 17-2-124 and as provided in subsection (5)(b) of this section, the department shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 1% of that amount from the tax proceeds received each reporting period. The department shall distribute the portion of the 1% that was paid with federal funds to the agency that made the*

in-state lodging expenditure and deposit 30% of the amount deducted less the portion paid with federal funds in the state general fund.

(b) The balance of the tax proceeds received each reporting period and not distributed to agencies that paid the tax with federal funds must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the department of fish, wildlife, and parks, and to the state-tribal economic development commission as follows:

(i) 7% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that have both resident and nonresident use;

(ii) 68.5% to be used directly by the department of commerce;

(iii) (A) except as provided in subsection (5)(b)(iii)(B), 24% to be distributed by the department of commerce to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide; and

(B) if 24% of the proceeds collected annually within the limits of a city, consolidated city-county, resort area, or resort area district exceeds \$35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area district is located to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-county, resort area, or resort area district; and

(iv) 0.5% to the state special revenue account provided for in 90-1-135 for use by the state-tribal economic development commission established in 90-1-131 for activities in the Indian tourism region.

(6) The tax proceeds received that are transferred to a state special revenue account pursuant to subsection (5)(b) are allocated to the entities."

Section 15. Codification instruction. [Sections 1 through 7] are intended to be codified as an integral part of Title 22, chapter 3, and the provisions of Title 22, chapter 3, apply to [sections 1 through 7].

Section 16. Effective date. [This act] is effective January 1, 2020.

Section 17. Applicability. [This act] applies to sales of accommodations or campgrounds that occur on or after January 1, 2020, and to the use of accommodations or use of campgrounds on or after January 1, 2020, even if the sale occurred before January 1, 2020.

Approved May 10, 2019

CHAPTER NO. 460

[HB 16]

AN ACT PROVIDING FUNDING FOR LOW-INCOME AND MODERATE-INCOME HOUSING LOANS WITH MONEY FROM THE PERMANENT COAL SEVERANCE TAX TRUST FUND; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 17-6-308, 90-6-132, AND 90-6-136, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Alternate funding source for housing loans -- use of coal tax trust fund money. (1) The board of investments shall allow the board of housing to administer \$15 million of the coal tax trust fund for the purpose of providing loans for the development and preservation of homes and apartments to assist eligible low-income and moderate-income applicants. Until the board

uses money in the coal tax trust fund to loan to a qualified applicant pursuant to this part, the money under the administration of the board must remain invested by the board of investments.

(2) While a loan made from the coal tax trust fund pursuant to this section is repaid, the principal payments on the loan must be deposited in the coal tax trust fund until all of the principal of the loan is repaid. Interest received on a loan may be used by the board, in amounts determined by the board in accordance with 90-6-136, to pay for the servicing of a loan and for reasonable costs of the board for administering the program. After payment of associated expenses, interest received on the loan must be deposited into the coal tax trust fund.

(3) (a) Money from the coal tax trust fund must be used for the purposes identified in 90-6-134(3) and (4).

(b) Loans made pursuant to this section must meet the following requirements:

(i) Projects funded with the loans must be multifamily rental housing projects that provide low-income and moderate-income housing.

(ii) The loan must be in the first lien position and may not exceed 95% of total development costs.

(iii) The minimum interest rate charged on a loan pursuant to this section is 0.5% less than the interest rate charged for a loan funded by the housing Montana fund provided for in 90-6-133.

(iv) The board and the loan recipient shall each pay half of loan servicing fees.

(v) Projects funded with the loans must be subject to property taxes.

(4) Money from the coal tax trust fund may not be used to replace existing or available sources of funding for eligible activities.

(5) Funds administered by the board from the coal tax trust fund may not be used to pay the expenses of any other program or service administered by the board.

Section 2. Section 17-6-308, MCA, is amended to read:

“17-6-308. Authorized investments. (1) Except as provided in subsections (2) through (7)(8) of this section and subject to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested as authorized by rules adopted by the board.

(2) The board may make loans from the permanent coal tax trust fund to the capital reserve account created pursuant to 17-5-1515 to establish balances or restore deficiencies in the account. The board may agree in connection with the issuance of bonds or notes secured by the account or fund to make the loans. Loans must be on terms and conditions determined by the board and must be repaid from revenue realized from the exercise of the board's powers under 17-5-1501 through 17-5-1518 and 17-5-1521 through 17-5-1529, subject to the prior pledge of the revenue to the bonds and notes.

(3) The board shall manage the seed capital and research and development loan portfolios created by the former Montana board of science and technology development. The board shall establish an appropriate repayment schedule for all outstanding research and development loans made to the university system. The board is the successor in interest to all agreements, contracts, loans, notes, or other instruments entered into by the Montana board of science and technology development as part of the seed capital and research and development loan portfolios, except agreements, contracts, loans, notes, or other instruments funded with coal tax permanent trust funds. The board shall administer the agreements, contracts, loans, notes, or other instruments funded with coal tax permanent trust funds. As loans made by the former

Montana board of science and technology development are repaid, the board shall deposit the proceeds or loans made from the coal severance tax trust fund in the coal severance tax permanent fund until all investments are paid back with 7% interest.

(4) The board shall allow the Montana facility finance authority to administer \$15 million of the permanent coal tax trust fund for capital projects. Until the authority makes a loan pursuant to the provisions of Title 90, chapter 7, the funds under its administration must be invested by the board pursuant to the provisions of 17-6-201. As loans for capital projects made pursuant to this subsection are repaid, the principal and interest payments on the loans must be deposited in the coal severance tax permanent fund until all principal and interest have been repaid. The board and the authority shall calculate the amount of the interest charge. Individual loan amounts may not exceed 10% of the amount administered under this subsection.

(5) The board shall allow the board of housing to administer \$40 million of the permanent coal tax trust fund for the purposes of the Montana veterans' home loan mortgage program provided for in Title 90, chapter 6, part 6.

(6) The board shall allow the board of housing to administer \$15 million of the permanent coal tax trust fund for the purpose of providing loans for the development and preservation of homes and apartments to assist low-income and moderate-income persons with meeting their basic housing needs pursuant to [section 1].

~~(6)(7)~~ (a) Subject to subsections ~~(6)(b)~~ (7)(b) through ~~(6)(d)~~ (7)(d), the board may make working capital loans from the permanent coal tax trust fund to an owner of a coal-fired generating unit.

(b) Loans may be provided in accordance with subsection ~~(6)(a)~~ (7)(a) only to finance the everyday operations and required maintenance of a coal-fired generating unit of which an owner has a shared interest.

(c) Loans may not be provided to operate or maintain a coal-fired generating unit beyond July 1, 2022.

(d) The board may charge a working capital loan application fee of up to \$500.

~~(7)(8)~~ The board may make loans from the permanent coal tax trust fund to a city, town, county, or consolidated city-county government impacted by the closure of a coal-fired generating unit to secure and maintain existing infrastructure.

~~(8)(9)~~ The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance. The rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit corporations.

~~(9)(10)~~ All repayments of proceeds pursuant to subsection (3) of investments made from the coal severance tax trust fund must be deposited in the coal severance tax permanent fund."

Section 3. Section 90-6-132, MCA, is amended to read:

"90-6-132. Definitions. As used in 90-6-131 through 90-6-136 and [section 1], the following definitions apply:

(1) "Board" means the board of housing created in 2-15-1814.

(2) "Coal tax trust fund" means the trust fund created pursuant to Article IX, section 5, of the Montana constitution.

(3) "Fund" means the housing Montana fund created in 90-6-133.

~~(3)(4)~~ "Housing development" means the same as has the meaning provided in 90-6-103.

~~(4)(5)~~ "Low-income" means households whose incomes do not exceed 80% of the median income in the area, as determined by the United States

department of housing and urban development, with adjustments for smaller or larger families.

(5)(6) “Moderate-income” means households whose incomes are between 81% and 95% of the median income for the area, as determined by the United States department of housing and urban development, with adjustments for smaller and larger families.”

Section 4. Section 90-6-136, MCA, is amended to read:

“90-6-136. Administrative rules. The board shall adopt rules to implement 90-6-131 through 90-6-136 and [section 1]. The rules must address:

- (1) the development of eligibility criteria for applicants;
- (2) the development of an application process for requesting financial assistance;
- (3) the establishment of a procedure for disbursing financial assistance;
- (4) the establishment of the terms and conditions of a loan, including the method and schedule of repayment and the applicable rate of interest;
- (5) the development of a process for awarding technical assistance contracts; and
- (6) other matters necessary for the administration of 90-6-131 through 90-6-136 and [section 1].”

Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 90, chapter 6, part 1, and the provisions of Title 90, chapter 6, part 1, apply to [section 1].

Section 6. Effective date. [This act] is effective July 1, 2019.

Approved May 10, 2019

CHAPTER NO. 461

[HB 126]

AN ACT REVISING COUNTY CLERK FEES; INCREASING THE FEE CHARGED FOR BIRTH CERTIFICATES TO \$8; INCREASING THE FEE CHARGED FOR DEATH CERTIFICATES TO \$5; AMENDING SECTION 7-4-2631, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-4-2631, MCA, is amended to read:

“7-4-2631. Fees of county clerk. (1) Except as provided in 7-2-2803(4), 7-4-2632, and 7-4-2637, the county clerks shall charge, for the use of their respective counties:

- (a) for filing and indexing each writ of attachment, execution, certificate of sale, lien, or other instrument required by law to be filed and indexed, \$5;
- (b) for filing of subdivision and townsite plats, \$25 plus:
 - (i) for each lot up to and including 100, 50 cents;
 - (ii) for each additional lot in excess of 100, 25 cents;
- (c) for filing certificates of surveys and amendments thereto, \$25 plus 50 cents per tract or lot;
- (d) for each page of a document required to be filed with a subdivision, townsite plat, or certificate of survey for which a filing fee is not otherwise set by law, \$1;
- (e) for a copy of a record or paper:
 - (i) for the first page of any document, 50 cents, and 25 cents for each subsequent page; and
 - (ii) for each certification with seal affixed, \$2;

(f) for searching an index record of files of the office for each year when required in abstracting or otherwise, 50 cents;

(g) for administering an oath with certificate and seal, no charge;

(h) for taking and certifying an acknowledgment, with seal affixed, for signature to it, no charge;

(i) for filing, indexing, or other services provided for by Title 30, chapter 9A, part 5, the fees prescribed under those sections;

(j) for recording each stock subscription and contract, stock certificate, and articles of incorporation for water users' associations, \$3;

(k) for filing a copy of notarial commission and issuing a certificate of official character of such notary public, \$2;

(l) for each certified copy of a birth certificate, \$5 \$8, and for each certified copy of a death certificate, \$3 \$5;

(m) for electronic storage of minutes of an administrative board, district, or commission pursuant to 7-1-204, 7-11-1030, 7-13-2350, 7-22-2113, 7-33-2112, or 76-15-324, no charge;

(n) for filing, recording, or indexing any other instrument not expressly provided for in this section or 7-4-2632, the same fee provided in this section or 7-4-2632 for a similar service.

(2) The county clerks shall charge, for the use of their respective counties, the fee as provided in 7-4-2632 for recording and indexing the following:

(a) each certificate of location of a quartz or placer mining claim or millsite claim, including a certificate that the instrument has been recorded with the seal affixed; and

(b) each affidavit of annual labor on a mining claim, including a certificate that the instrument has been recorded with the seal affixed.

(3) State agencies submitting documents to be put of record shall pay the fees provided for in this section. If a state agency or political subdivision has requested an account with the county clerk, any applicable fees must be paid on a periodic basis."

Section 2. Effective date. [This act] is effective July 1, 2019.

Approved May 11, 2019

CHAPTER NO. 462

[HB 172]

AN ACT ALLOWING FOR THE ESTABLISHMENT OF COUNTY AND MULTICOUNTY VETERANS' SERVICE OFFICES; PROVIDING FOR A STATE GRANT PROGRAM FOR COUNTY VETERANS' SERVICE OFFICES; PROVIDING AN APPROPRIATION; AMENDING SECTION 10-2-115, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 10-2-115, MCA, is amended to read:

"10-2-115. County veterans' service officers *County and multicounty veterans' service offices.* (1) A county may, with the advice of the board, provide for a county veterans' service officer office to assist veterans and their families in filing benefit claims. ~~If a county provides for a veterans' service officer under this section, the officer must be trained, accredited, and supervised in accordance with the applicable provisions of 38 CFR 14.629. A county may fund the position as provided for in 15-10-425 or through other means provided by law.~~

(2) *The governing body of two or more counties may enter into a memorandum of understanding to establish a multicounty veterans' service office that operates under the same guidelines as a single-county office.*

(3) *Veterans' service officers assigned to county veterans' service offices must be trained, accredited, and supervised in accordance with applicable provisions of 38 CFR 14.629.*

(4) *A county may fund its veterans' service office as provided for in 15-10-425 or through other means provided by law."*

Section 2. Funding county veterans' service offices -- grant -- conditions and reporting. (1) (a) The board shall administer a grant program and award grants to county and multicounty veterans' service offices from funding appropriated by the legislature for the purposes of this section.

(b) The amount paid to each county or multicounty veterans' service office is calculated by multiplying the total annual appropriation for the grant program by the ratio of the number of veterans residing in a county or counties serviced by a county or multicounty veterans' service office to the total number of veterans residing in all counties participating in the grant program and rounding to the nearest whole dollar amount. The number of veterans residing in a county is determined using the most recent data reported by the U.S. department of veterans affairs.

(c) The board shall ensure that all funds are distributed to eligible county or multicounty veterans' service offices.

(2) To receive a grant, a county or multicounty veterans' service office shall:

(a) have established county funding as provided for in 15-10-425 or through other means provided by law;

(b) have established a physical office at an accessible location where veterans and their family members may visit in person;

(c) provide for at least one veterans' service officer;

(d) ensure that each county veterans' service officer meets the qualifications and requirements of 10-2-115; and

(e) ensure that all of the grant money received pursuant to this section is spent in support of veterans and their family members and may not be used for any other purpose.

(3) If the requirements of subsection (2) are met, a grant must be awarded:

(a) to a county veterans' service office established before [the effective date of this act];

(b) to a new county veterans' service office during the biennium immediately following the date it was established; and

(c) each subsequent fiscal year a county veterans' service office continues to meet the requirements in subsection (2).

(4) The amount of grant money a county veterans' service office receives is in proportion to the number of veterans residing in the county or counties served by that office as specified in subsection (1)(b).

(5) A county veterans' service office that receives a grant shall report data and information to the department at the end of the fiscal year in which a grant was dispersed. Reported data and information shall encompass the following:

(a) disability benefit claims data and information, including but not limited to:

(i) the number of claim forms submitted by the county veterans' service office to the U.S. department of veterans affairs; and

(ii) the number of notices of disagreement or appeals submitted through the county veterans' service office to the U.S. department of veterans affairs;

(b) the number of medical enrollments submitted by the county veterans' service office to the U.S. department of veterans affairs;

(c) the number of veterans' education enrollments submitted by the county veterans' office to the U.S. department of veterans affairs;

(d) the number of county and state burial benefits processed by the county veterans' service office; and

(e) a description of any other ancillary services provided to county veterans, such as transportation services, mental health services, homeless services, crisis intervention, and military records requests.

Section 3. Appropriation. (1) The following money is appropriated from the general fund to the department of military affairs for grants awarded to county and multicounty veterans' service offices as provided for in [section 2]:

Fiscal year 2020 \$30,000

Fiscal year 2021 \$30,000

(2) The legislature intends that the appropriation in fiscal year 2021 be considered as part of the ongoing base for the next legislative session.

Section 4. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 10, chapter 2, part 1, and the provisions of Title 10, chapter 2, part 1, apply to [section 2].

Section 5. Effective date. [This act] is effective July 1, 2019.

Section 6. Termination. [This act] terminates June 30, 2023.

Approved May 10, 2019

CHAPTER NO. 463

[HB 231]

AN ACT GENERALLY REVISING THE SCOPE OF PRACTICE FOR PHARMACISTS ALLOWED TO ADMINISTER VACCINES; EXPANDING RULEMAKING AUTHORITY; AMENDING SECTIONS 37-7-101 AND 37-7-105, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 37-7-101, MCA, is amended to read:

“37-7-101. Definitions. As used in this chapter, the following definitions apply:

(1) ~~(a)~~(a) “Administer” means the direct application of a drug to the body of a patient by injection, inhalation, ingestion, or any other means.

~~(b) Except as provided in 37-7-105, the term does not include immunization by injection for children under 18 years of age.~~

~~(b) Except as provided in 37-7-105, the term does not include immunization by injection for children under 18 years of age.~~

(2) “Board” means the board of pharmacy provided for in 2-15-1733.

(3) “Cancer drug” means a prescription drug used to treat:

(a) cancer or its side effects; or

(b) the side effects of a prescription drug used to treat cancer or its side effects.

(4) “Chemical” means medicinal or industrial substances, whether simple, compound, or obtained through the process of the science and art of chemistry, whether of organic or inorganic origin.

(5) “Clinical pharmacist practitioner” means a licensed pharmacist in good standing who meets the requirements specified in 37-7-306.

(6) “Collaborative pharmacy practice” means the practice of pharmacy by a pharmacist who has agreed to work in conjunction with one or more prescribers, on a voluntary basis and under protocol, and who may perform

certain patient care functions under certain specified conditions or limitations authorized by the prescriber.

(7) “Collaborative pharmacy practice agreement” means a written and signed agreement between one or more pharmacists and one or more prescribers that provides for collaborative pharmacy practice for the purpose of drug therapy management of patients.

(8) “Commercial purposes” means the ordinary purposes of trade, agriculture, industry, and commerce, exclusive of the practices of medicine and pharmacy.

(9) “Compounding” means the preparation, mixing, assembling, packaging, or labeling of a drug or device based on:

(a) a practitioner’s prescription drug order;

(b) a professional practice relationship between a practitioner, pharmacist, and patient;

(c) research, instruction, or chemical analysis, but not for sale or dispensing; or

(d) the preparation of drugs or devices based on routine, regularly observed prescribing patterns.

(10) “Confidential patient information” means privileged information accessed by, maintained by, or transmitted to a pharmacist in patient records or that is communicated to the patient as part of patient counseling.

(11) “Controlled substance” means a substance designated in Schedules II through V of Title 50, chapter 32, part 2.

(12) “Department” means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(13) “Device” has the same meaning as defined in 37-2-101.

(14) “Dispense” or “dispensing” means the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or patient’s agent in a suitable container appropriately labeled for administration to or use by a patient.

(15) “Distribute” or “distribution” means the sale, purchase, trade, delivery, handling, storage, or receipt of a drug or device and does not include administering or dispensing a prescription drug, pursuant to section 353(b)(1), or a new animal drug, pursuant to section 360b(b) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301, et seq.

(16) “Drug” means a substance:

(a) recognized as a drug in any official compendium or supplement;

(b) intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(c) other than food, intended to affect the structure or function of the body of humans or animals; and

(d) intended for use as a component of a substance specified in subsection (16)(a), (16)(b), or (16)(c).

(17) “Drug utilization review” means an evaluation of a prescription drug order and patient records for duplication of therapy, interactions, proper utilization, and optimum therapeutic outcomes. The term includes but is not limited to the following evaluations:

(a) known allergies;

(b) rational therapy contraindications;

(c) reasonable dose and route administration;

(d) reasonable directions for use;

(e) drug-drug interactions;

(f) drug-food interactions;

(g) drug-disease interactions; and

(h) adverse drug reactions.

(18) "Equivalent drug product" means a drug product that has the same established name, active ingredient or ingredients, strength or concentration, dosage form, and route of administration and meets the same standards as another drug product as determined by any official compendium or supplement. Equivalent drug products may differ in shape, scoring, configuration, packaging, excipients, and expiration time.

(19) "FDA" means the United States food and drug administration.

(20) "Health care facility" has the meaning provided in 50-5-101.

(21) (a) "Health clinic" means a facility in which advice, counseling, diagnosis, treatment, surgery, care, or services relating to preserving or maintaining health are provided on an outpatient basis for a period of less than 24 consecutive hours to a person not residing at or confined to the facility.

(b) The term includes an outpatient center for primary care and an outpatient center for surgical services, as those terms are defined in 50-5-101, and a local public health agency as defined in 50-1-101.

(c) The term does not include a facility that provides routine health screenings, health education, or immunizations.

(22) "Hospital" has the meaning provided in 50-5-101.

(23) "Immunization-certified pharmacist" means a pharmacist who:

(a) *has successfully completed an immunization delivery course of training that is approved by the accreditation council for pharmacy education or by an authority approved by the board and that, at a minimum, includes instruction in hands-on injection technique, clinical evaluation of indications and contraindications of immunizations, storage and handling of immunizations, and documentation and reporting; and*

(b) *holds a current basic cardiopulmonary resuscitation certification issued by the American heart association, the American red cross, or another recognized provider.*

~~(23)~~(24) "Intern" means:

(a) a person who is licensed by the state to engage in the practice of pharmacy while under the personal supervision of a preceptor and who is satisfactorily progressing toward meeting the requirements for licensure as a pharmacist;

(b) a graduate of an accredited college of pharmacy who is licensed by the state for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist;

(c) a qualified applicant awaiting examination for licensure; or

(d) a person participating in a residency or fellowship program.

~~(24)~~(25) "Long-term care facility" has the meaning provided in 50-5-101.

~~(25)~~(26) "Manufacturing" means the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis.

~~(26)~~(27) "Medicine" means a remedial agent that has the property of curing, preventing, treating, or mitigating diseases or which is used for this purpose.

~~(27)~~(28) "Outsourcing facility" means a facility at one geographic location or address that:

(a) engages in compounding of sterile drugs;

(b) has elected to register as an outsourcing facility with FDA; and

(c) complies with all the requirements of section 353b of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq.

~~(28)~~(29) "Participant" means a physician's office, pharmacy, hospital, or health clinic that has elected to voluntarily participate in the cancer drug

repository program provided for in 37-7-1403 and that accepts donated cancer drugs or devices under rules adopted by the board.

(29)(30) "Patient counseling" means the communication by the pharmacist of information, as defined by the rules of the board, to the patient or caregiver in order to ensure the proper use of drugs or devices.

(30)(31) "Person" includes an individual, partnership, corporation, association, or other legal entity.

(31)(32) "Pharmaceutical care" means the provision of drug therapy and other patient care services intended to achieve outcomes related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process.

(32)(33) "Pharmacist" means a person licensed by the state to engage in the practice of pharmacy and who may affix to the person's name the term "R.Ph."

(33)(34) "Pharmacy" means an established location, either physical or electronic, registered by the board where drugs or devices are dispensed with pharmaceutical care or where pharmaceutical care is provided.

(34)(35) "Pharmacy technician" means an individual who assists a pharmacist in the practice of pharmacy.

(35)(36) "Poison" means a substance that, when introduced into the system, either directly or by absorption, produces violent, morbid, or fatal changes or that destroys living tissue with which it comes in contact.

(36)(37) "Practice of pharmacy" means:

- (a) interpreting, evaluating, and implementing prescriber orders;
- (b) administering drugs and devices pursuant to a collaborative practice agreement, except as provided in 37-7-105, and compounding, labeling, dispensing, and distributing drugs and devices, including patient counseling;
- (c) properly and safely procuring, storing, distributing, and disposing of drugs and devices and maintaining proper records;
- (d) monitoring drug therapy and use;
- (e) initiating or modifying drug therapy in accordance with collaborative pharmacy practice agreements established and approved by health care facilities or voluntary agreements with prescribers;
- (f) participating in quality assurance and performance improvement activities;
- (g) providing information on drugs, dietary supplements, and devices to patients, the public, and other health care providers; and
- (h) participating in scientific or clinical research as an investigator or in collaboration with other investigators.

(37)(38) "Practice telepharmacy" means to provide pharmaceutical care through the use of information technology to patients at a distance.

(38)(39) "Preceptor" means an individual who is registered by the board and participates in the instructional training of a pharmacy intern.

(39)(40) "Prescriber" has the same meaning as provided in 37-7-502.

(40)(41) "Prescription drug" means any drug that is required by federal law or regulation to be dispensed only by a prescription subject to section 353(b) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq.

(41)(42) "Prescription drug order" means an order from a prescriber for a drug or device that is communicated directly or indirectly by the prescriber to the furnisher by means of a signed order, by electronic transmission, in person, or by telephone. The order must include the name and address of the prescriber, the prescriber's license classification, the name and address of the patient, the name, strength, and quantity of the drug, drugs, or device prescribed, the directions for use, and the date of its issue. These stipulations

apply to written, oral, electronically transmitted, and telephoned prescriptions and orders derived from collaborative pharmacy practice.

(42)(43) "Provisional community pharmacy" means a pharmacy that has been approved by the board, including but not limited to federally qualified health centers, as defined in 42 CFR 405.2401, where prescription drugs are dispensed to appropriately screened, qualified patients.

(43)(44) "Qualified patient" means a person who is uninsured, indigent, or has insufficient funds to obtain needed prescription drugs or cancer drugs.

(44)(45) "Registry" means the prescription drug registry provided for in 37-7-1502.

(45)(46) "Utilization plan" means a plan under which a pharmacist may use the services of a pharmacy technician in the practice of pharmacy to perform tasks that:

(a) do not require the exercise of the pharmacist's independent professional judgment; and

(b) are verified by the pharmacist.

(46)(47) "Wholesale" means a sale for the purpose of resale."

Section 2. Section 37-7-105, MCA, is amended to read:

"37-7-105. Administration of immunizations. (1) An immunization-certified pharmacist may:

(a) prescribe and administer ~~the following~~ *the following* immunizations without a collaborative practice agreement in place:

(i) *influenza to individuals who are 12 years of age or older;*

(ii) *pneumococcal, tetanus, diphtheria, and pertussis to individuals who are 18 years of age or older; and*

(iii) *herpes zoster to those individuals identified in the guidelines published by the United States centers for disease control and prevention's advisory committee on immunization practices; and*

(b) *administer immunizations to individuals 7 years of age or older as provided by the most recent guidelines by vaccine and age group published by the United States centers for disease control and prevention and as determined within a collaborative practice agreement.;*

(a) ~~influenza to individuals who are 12 years of age or older;~~

(b) ~~pneumococcal, tetanus, and diphtheria to individuals who are 18 years of age or older;~~

(c) ~~herpes zoster to those individuals identified in the guidelines published by the United States centers for disease control and prevention's advisory committee on immunization practices; or~~

(d)(2) ~~in~~ *In the event of an adverse reaction, a pharmacist may administer epinephrine or diphenhydramine to individuals who are 12 years of age or older to:*

(a) *an individual who is 12 years of age or older; and*

(b) *a child who is 7 years of age or older and under 12 years of age within a collaborative practice agreement.*

(3) *If a pharmacist provides an immunization that is part of a series requiring multiple doses over time, the pharmacist shall notify the individual or the individual's legal representative at the time the next immunization in the series is due to be administered by sending a notice to the individual or representative that the followup immunization is needed to fulfill the series requirement.*

(2)(4) A pharmacist who administers an immunization pursuant to this section shall:

(a) ensure that the individual who is being immunized is assessed for contraindications to immunization;

(b) ensure that the individual who is being immunized or the individual's legal representative receives a copy of the appropriate vaccine information statement;

(c) ~~report an adverse reaction~~ if the pharmacist is notified of ~~the~~ *an adverse reaction, report the reaction to:*

(i) the patient's primary health care provider, if the patient identifies one;

(ii) the medical provider or providers with whom the pharmacist has a collaborative practice agreement; and

(iii) the vaccine adverse event reporting system established under the United States department of health and human services;

(d) provide a signed certificate of immunization to the ~~primary health care provider of each primary health care provider, if known, of each individual who is immunized and to the individual who is immunized and to the individual who is immunized~~ that includes the individual's name, date of immunization, address of immunization, administering pharmacist, immunization agent, manufacturer, and lot number; ~~and~~

(e) create a record for each immunization, in which the individual's name, date, address of immunization, administering pharmacist, immunization agent, manufacturer, and lot number are included, and maintain the record for 7 years from the date the immunization was administered *or until 7 years after the individual reaches 18 years of age, whichever is later; and*

(f) *offer the patient the opportunity to have the immunization information reported to the state immunization information system.*

~~(3)(5)~~ For the purposes of this section, ~~the following definitions apply:~~

~~(a) "Immunization-certified pharmacist" means a pharmacist who has successfully completed a course of training approved by the United States centers for disease control and prevention, by a provider accredited by the accreditation council for pharmacy education, or by an authority approved by the board and who~~

~~holds a current basic cardiopulmonary resuscitation certification issued by the American heart association, the American red cross, or other recognized provider.~~

~~(b) "Vaccine "vaccine information statement" means an information sheet that is produced by the United States centers for disease control and prevention that explains the benefits and risks associated with a vaccine to a vaccine recipient or the legal representative of the vaccine recipient."~~

Section 3. Coordination instruction. If both House Bill No. 596 and [this act] are passed and approved, then [section 2(4)(f) of this act] is void in its entirety.

Section 4. Effective date. [This act] is effective July 1, 2019.

Approved May 10, 2019

CHAPTER NO. 464

[HB 292]

AN ACT TEMPORARILY INCREASING THE COAL SEVERANCE TAX ALLOCATION TO THE COAL NATURAL RESOURCE ACCOUNT; ESTABLISHING THE INCREASE UNTIL JUNE 30, 2023; AMENDING SECTION 15-35-108, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-35-108, MCA, is amended to read:

“15-35-108. (Temporary) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 0.85% in fiscal year 2018 and 0.88% in fiscal year 2019 must be allocated for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking and must be deposited in the basic library services account established in 22-1-202.

(4) The amount of 3.89% in fiscal year 2018 and 3.83% in fiscal year 2019 must be allocated to the department of natural resources and conservation for conservation districts and deposited in the conservation district account established in 76-15-106.

(5) The amount of 0.72% in fiscal year 2018 and 0.75% in fiscal year 2019 must be allocated to the Montana Growth Through Agriculture Act and deposited in the growth through agriculture account established in 90-9-104.

(6) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(7) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(8) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(9) The amount of 5.8% through June 30, ~~2019~~ 2023, and beginning July 1, ~~2019~~ 2023, the amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(10) After the allocations are made under subsections (2) through (9), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(11) (a) Subject to subsection (11)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

(b) The interest income of the coal severance tax permanent fund that is deposited in the general fund, less the annual transfer of \$1.275 million to the research and commercialization state special revenue account pursuant to 15-1-122(2), is statutorily appropriated, as provided in 17-7-502, on July 1 each year as follows:

- (i) \$65,000 to the cooperative development center;
- (ii) \$625,000 for the growth through agriculture program provided for in Title 90, chapter 9;
- (iii) to the department of commerce:
 - (A) \$125,000 for a small business development center;
 - (B) \$50,000 for a small business innovative research program;
 - (C) \$425,000 for certified regional development corporations;

(D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman; and

(E) \$300,000 for export trade enhancement. (Terminates June 30, 2019--secs. 2, 3, Ch. 459, L. 2009.)

15-35-108. (Effective July 1, 2019) Disposal of severance taxes.

Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 0.90% in fiscal year 2020 and 0.93% in fiscal year 2021 and in each fiscal year thereafter must be allocated for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking and must be deposited in the basic library services account established in 22-1-202.

(4) The amount of 3.77% in fiscal year 2020 and 3.71% in fiscal year 2021 and in each fiscal year thereafter must be allocated to the department of natural resources and conservation for conservation districts and deposited in the conservation district account established in 76-15-106.

(5) The amount of 0.79% in fiscal year 2020 and 0.82% in fiscal year 2021 and in each fiscal year thereafter must be allocated to the Montana Growth Through Agriculture Act and deposited in the growth through agriculture account established in 90-9-104.

(6) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(7) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(8) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(9) The amount of 5.8% *through June 30, 2023, and beginning July 1, 2023*, 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(10) After the allocations are made under subsections (2) through (9), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(11) All other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state."

Section 2. Effective date. [This act] is effective July 1, 2019.

Approved May 10, 2019

CHAPTER NO. 465

[HB 341]

AN ACT CREATING A GROUND WATER INVESTIGATION PROGRAM SPECIAL REVENUE ACCOUNT; PROVIDING A STATUTORY APPROPRIATION; PROVIDING FOR AN ANNUAL TRANSFER OF FUNDS; AMENDING SECTIONS 17-7-502 AND 85-2-525, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Ground water investigation program account – use.

(1) There is a ground water investigation program account in the state special revenue fund. The account is administered by the Montana bureau of mines and geology and is statutorily appropriated, as provided in 17-7-502, for the purpose of funding activities related to the ground water investigation program, as provided in 85-2-525.

(2) Interest and income earnings in the account must be deposited into the account.

(3) Any money in the account that is unspent or unencumbered at the end of the fiscal year must remain in the account.

Section 2. General fund transfer. By August 15 of each year, the state treasurer shall transfer \$250,000 plus the approved inflation factor contained in the revenue estimating resolution each fiscal year from the general fund to the ground water investigation program account for the purpose of funding the ground water investigation program.

Section 3. Section 17-7-502, MCA, is amended to read:

“17-7-502. Statutory appropriations – definition – requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-416; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-10-103;

82-11-161; [section 1]; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023, and pursuant to sec. 2, Ch. 340, L. 2017, and sec. 32, Ch. 429, L. 2017, is void for fiscal years 2018 and 2019; and pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027.)"

Section 4. Section 85-2-525, MCA, is amended to read:

"85-2-525. Ground water investigation program -- advisory committee. (1) The Montana bureau of mines and geology shall develop and implement a ground water investigation program for the purpose of collecting and compiling ground water and aquifer data. The program shall gather data, compile existing information, conduct field studies, and prepare a detailed hydrogeologic assessment report for each subbasin. The program shall develop a monitoring plan and a hydrogeologic model for each subbasin for which a report is prepared.

(2) The ground water assessment steering committee, established by 2-15-1523, shall prioritize subbasins for investigation based upon current and anticipated growth of agriculture, industry, housing, and commercial activity. Permit applications for the development of surface water or ground water

and the timing of adjudication of water rights may be taken into account in prioritizing subbasins.

(3) The bureau of mines and geology shall report, in accordance with 5-11-210, on the work of the ground water investigation program to the water policy committee established in 5-5-231."

Section 5. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 85, chapter 2, part 5, and the provisions of Title 85, chapter 2, part 5, apply to [sections 1 and 2].

Section 6. Effective date. [This act] is effective July 1, 2019.

Section 7. Termination. [Sections 1 through 3] terminate July 1, 2023.

Approved May 10, 2019

CHAPTER NO. 466

[HB 433]

AN ACT PROVIDING THE LEGISLATIVE FISCAL ANALYST DIRECT ACCESS TO THE SECURE DATA WAREHOUSE OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES AS PHASES OF THE SECURE DATA WAREHOUSE PROJECT ARE IMPLEMENTED; AMENDING SECTION 5-12-303, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 5-12-303, MCA, is amended to read:

"5-12-303. Fiscal analysis information from state agencies. (1) The legislative fiscal analyst may investigate and examine the costs and revenue of state government activities and may examine and obtain copies of the records, books, and files of any state agency, including confidential records.

(2) When confidential records and information are obtained from a state agency, the legislative fiscal analyst and staff must be subject to the same penalties for unauthorized disclosure of the confidential records and information provided for under the laws administered by the state agency. The legislative fiscal analyst shall develop policies to prevent the unauthorized disclosure of confidential records and information obtained from state agencies *and may not disclose confidential records or information to legislators.*

(3) (a) The department of revenue shall make Montana individual income tax information available by removing names, addresses, and social security numbers and substituting in their place a state accounting record identifier number. Except for the purposes of complying with federal law, the department may not alter the data in any other way.

(b) The department of revenue shall provide the name and address of a taxpayer on written request of the legislative fiscal analyst when the values on the requested return, including estimated payments, are considered necessary by the legislative fiscal analyst to properly analyze state revenue and are of a sufficient magnitude to materially affect the analysis and when the identity of the taxpayer is necessary to evaluate the effect of the return or payments on the analysis being performed.

(4) (a) *The department of public health and human services shall provide the legislative fiscal analyst direct access to the department's secure data warehouse as the phases of the secure data warehouse project are implemented.*

(b) *The department of public health and human services shall consult with the legislative fiscal analyst and shall establish user requirements to ensure the legislative fiscal analyst does not have access to direct identifiers stored on the secure data warehouse. The department of public health and human services*

shall consult with the legislative fiscal analyst and shall establish requirements to ensure the legislative fiscal analyst does not have access to direct identifiers stored in other data systems where the data is not available through the secure data warehouse after the phases of the secure data warehouse project are implemented.

(c) The data must be made available to the legislative fiscal analyst in a format that complies with the regulations of the respective federal programs.

(d) The department of public health and human services shall submit quarterly reports in an electronic format to the legislative finance committee and the children, families, health, and human services interim committee on the following:

(i) the implementation of the phases of the secure data warehouse project;

(ii) the user requirements established by the department and the legislative fiscal analyst; and

(iii) the status of the legislative fiscal analyst's access to the secure data warehouse.

(4)(5) Within 1 day after the legislative finance committee presents its budget analysis to the legislature, the budget director and the legislative fiscal analyst shall exchange expenditure and disbursement recommendations by second-level expenditure detail and by funding sources detailed by accounting entity. This information must be filed in the respective offices and be made available to the legislature and the public. In preparing the budget analysis for the next biennium for submission to the legislature, the legislative fiscal analyst shall use the base budget, the present law base, and new proposals as defined in 17-7-102.

(5)(6) This section does not authorize publication or public disclosure of information if the law prohibits publication or disclosure or if the department of revenue notifies the fiscal analyst that specified records or information may contain confidential information."

Section 2. Effective date. [This act] is effective July 1, 2019.

Approved May 11, 2019

CHAPTER NO. 467

[HB 489]

AN ACT REPEALING THE LAWS RELATED TO CERTIFICATES OF PUBLIC ADVANTAGE; AND REPEALING SECTIONS 50-4-601, 50-4-602, 50-4-603, 50-4-604, 50-4-605, 50-4-609, 50-4-610, 50-4-611, 50-4-612, 50-4-621, AND 50-4-622, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Repealer. The following sections of the Montana Code Annotated are repealed:

50-4-601. Finding and purpose.

50-4-602. Cooperative agreements, mergers, and consolidations allowed.

50-4-603. Certificate of public advantage -- standards for certification -- time for action by department -- duration of certificate.

50-4-604. Reconsideration by department.

50-4-605. Definitions.

50-4-609. Revocation of certificate by department.

50-4-610. Appeal.

50-4-611. Record of agreements to be kept.

50-4-612. Rulemaking.

50-4-621. Enforcement by attorney general.

50-4-622. Reports.

Approved May 10, 2019

CHAPTER NO. 468

[HB 549]

AN ACT REVISING CHILD SEX TRAFFICKING LAWS; REVISING THE DEFINITION OF “CHILD ABUSE AND NEGLECT” TO INCLUDE CHILD SEX TRAFFICKING; ENSURING THAT VICTIMS OF CHILD SEX TRAFFICKING RECEIVE ACCESS TO SPECIALIZED SERVICES; AND AMENDING SECTIONS 41-3-102 AND 45-5-709, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 41-3-102, MCA, is amended to read:

“41-3-102. Definitions. As used in this chapter, the following definitions apply:

(1) (a) “Abandon”, “abandoned”, and “abandonment” mean:

(i) leaving a child under circumstances that make reasonable the belief that the parent does not intend to resume care of the child in the future;

(ii) willfully surrendering physical custody for a period of 6 months and during that period not manifesting to the child and the person having physical custody of the child a firm intention to resume physical custody or to make permanent legal arrangements for the care of the child;

(iii) that the parent is unknown and has been unknown for a period of 90 days and that reasonable efforts to identify and locate the parent have failed; or

(iv) the voluntary surrender, as defined in 40-6-402, by a parent of a newborn who is no more than 30 days old to an emergency services provider, as defined in 40-6-402.

(b) The terms do not include the voluntary surrender of a child to the department solely because of parental inability to access publicly funded services.

(2) “A person responsible for a child’s welfare” means:

(a) the child’s parent, guardian, or foster parent or an adult who resides in the same home in which the child resides;

(b) a person providing care in a day-care facility;

(c) an employee of a public or private residential institution, facility, home, or agency; or

(d) any other person responsible for the child’s welfare in a residential setting.

(3) “Abused or neglected” means the state or condition of a child who has suffered child abuse or neglect.

(4) (a) “Adequate health care” means any medical care or nonmedical remedial health care recognized by an insurer licensed to provide disability insurance under Title 33, including the prevention of the withholding of medically indicated treatment or medically indicated psychological care permitted or authorized under state law.

(b) This chapter may not be construed to require or justify a finding of child abuse or neglect for the sole reason that a parent or legal guardian, because of religious beliefs, does not provide adequate health care for a child. However, this chapter may not be construed to limit the administrative or judicial

authority of the state to ensure that medical care is provided to the child when there is imminent substantial risk of serious harm to the child.

(5) “Best interests of the child” means the physical, mental, and psychological conditions and needs of the child and any other factor considered by the court to be relevant to the child.

(6) “Child” or “youth” means any person under 18 years of age.

(7) (a) “Child abuse or neglect” means:

(i) actual physical or psychological harm to a child;

(ii) substantial risk of physical or psychological harm to a child; or

(iii) abandonment.

(b) (i) The term includes:

(A) actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child’s welfare; or

(B) exposing a child to the criminal distribution of dangerous drugs, as prohibited by 45-9-101, the criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110, or the operation of an unlawful clandestine laboratory, as prohibited by 45-9-132; or

(C) *any form of child sex trafficking or human trafficking.*

(ii) For the purposes of this subsection (7), “dangerous drugs” means the compounds and substances described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2.

(c) In proceedings under this chapter in which the federal Indian Child Welfare Act is applicable, this term has the same meaning as “serious emotional or physical damage to the child” as used in 25 U.S.C. 1912(f).

(d) The term does not include self-defense, defense of others, or action taken to prevent the child from self-harm that does not constitute physical or psychological harm to a child.

(8) “Concurrent planning” means to work toward reunification of the child with the family while at the same time developing and implementing an alternative permanent plan.

(9) “Department” means the department of public health and human services provided for in 2-15-2201.

(10) “Family group decisionmaking meeting” means a meeting that involves family members in either developing treatment plans or making placement decisions, or both.

(11) “Indian child” means any unmarried person who is under 18 years of age and who is either:

(a) a member of an Indian tribe; or

(b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

(12) “Indian child’s tribe” means:

(a) the Indian tribe in which an Indian child is a member or eligible for membership; or

(b) in the case of an Indian child who is a member of or eligible for membership in more than one Indian tribe, the Indian tribe with which the Indian child has the more significant contacts.

(13) “Indian custodian” means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control have been transferred by the child’s parent.

(14) “Indian tribe” means any Indian tribe, band, nation, or other organized group or community of Indians recognized by:

(a) the state of Montana; or

(b) the United States secretary of the interior as being eligible for the services provided to Indians or because of the group's status as Indians, including any Alaskan native village as defined in federal law.

(15) "Limited emancipation" means a status conferred on a youth by a court in accordance with 41-1-503 under which the youth is entitled to exercise some but not all of the rights and responsibilities of a person who is 18 years of age or older.

(16) "Parent" means a biological or adoptive parent or stepparent.

(17) "Parent-child legal relationship" means the legal relationship that exists between a child and the child's birth or adoptive parents, as provided in Title 40, chapter 6, part 2, unless the relationship has been terminated by competent judicial decree as provided in 40-6-234, Title 42, or part 6 of this chapter.

(18) "Permanent placement" means reunification of the child with the child's parent, adoption, placement with a legal guardian, placement with a fit and willing relative, or placement in another planned permanent living arrangement until the child reaches 18 years of age.

(19) "Physical abuse" means an intentional act, an intentional omission, or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death.

(20) "Physical neglect" means either failure to provide basic necessities, including but not limited to appropriate and adequate nutrition, protective shelter from the elements, and appropriate clothing related to weather conditions, or failure to provide cleanliness and general supervision, or both, or exposing or allowing the child to be exposed to an unreasonable physical or psychological risk to the child.

(21) (a) "Physical or psychological harm to a child" means the harm that occurs whenever the parent or other person responsible for the child's welfare:

(i) inflicts or allows to be inflicted upon the child physical abuse, physical neglect, or psychological abuse or neglect;

(ii) commits or allows sexual abuse or exploitation of the child;

(iii) induces or attempts to induce a child to give untrue testimony that the child or another child was abused or neglected by a parent or other person responsible for the child's welfare;

(iv) causes malnutrition or a failure to thrive or otherwise fails to supply the child with adequate food or fails to supply clothing, shelter, education, or adequate health care, though financially able to do so or offered financial or other reasonable means to do so;

(v) exposes or allows the child to be exposed to an unreasonable risk to the child's health or welfare by failing to intervene or eliminate the risk; or

(vi) abandons the child.

(b) The term does not include a youth not receiving supervision solely because of parental inability to control the youth's behavior.

(22) (a) "Protective services" means services provided by the department:

(i) to enable a child alleged to have been abused or neglected to remain safely in the home;

(ii) to enable a child alleged to have been abused or neglected who has been removed from the home to safely return to the home; or

(iii) to achieve permanency for a child adjudicated as a youth in need of care when circumstances and the best interests of the child prevent reunification with parents or a return to the home.

(b) The term includes emergency protective services provided pursuant to 41-3-301, voluntary protective services provided pursuant to 41-3-302, and court-ordered protective services provided pursuant to parts 4 and 6 of this chapter.

(23) (a) "Psychological abuse or neglect" means severe maltreatment through acts or omissions that are injurious to the child's emotional, intellectual, or psychological capacity to function, including the commission of acts of violence against another person residing in the child's home.

(b) The term may not be construed to hold a victim responsible for failing to prevent the crime against the victim.

(24) "Qualified expert witness" as used in cases involving an Indian child in proceedings subject to the federal Indian Child Welfare Act means:

(a) a member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and child-rearing practices;

(b) a lay expert witness who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child-rearing practices within the Indian child's tribe; or

(c) a professional person who has substantial education and experience in providing services to children and families and who possesses significant knowledge of and experience with Indian culture, family structure, and child-rearing practices in general.

(25) "Reasonable cause to suspect" means cause that would lead a reasonable person to believe that child abuse or neglect may have occurred or is occurring, based on all the facts and circumstances known to the person.

(26) "Residential setting" means an out-of-home placement where the child typically resides for longer than 30 days for the purpose of receiving food, shelter, security, guidance, and, if necessary, treatment.

(27) (a) "Sexual abuse" means the commission of sexual assault, sexual intercourse without consent, indecent exposure, sexual abuse, ritual abuse of a minor, or incest, as described in Title 45, chapter 5.

(b) Sexual abuse does not include any necessary touching of an infant's or toddler's genital area while attending to the sanitary or health care needs of that infant or toddler by a parent or other person responsible for the child's welfare.

(28) "Sexual exploitation" means allowing, permitting, or encouraging a child to engage in a prostitution offense, as described in 45-5-601 through 45-5-603, or allowing, permitting, or encouraging sexual abuse of children as described in 45-5-625.

(29) (a) "Social worker" means an employee of the department who, before the employee's field assignment, has been educated or trained in a program of social work or a related field that includes cognitive and family systems treatment or who has equivalent verified experience or verified training in the investigation of child abuse, neglect, and endangerment.

(b) This definition does not apply to any provision of this code that is not in this chapter.

(30) "Treatment plan" means a written agreement between the department and the parent or guardian or a court order that includes action that must be taken to resolve the condition or conduct of the parent or guardian that resulted in the need for protective services for the child. The treatment plan may involve court services, the department, and other parties, if necessary, for protective services.

(31) “Unfounded” means that after an investigation, the investigating person has determined that the reported abuse, neglect, or exploitation has not occurred.

(32) “Unsubstantiated” means that after an investigation, the investigator was unable to determine by a preponderance of the evidence that the reported abuse, neglect, or exploitation has occurred.

(33) (a) “Withholding of medically indicated treatment” means the failure to respond to an infant’s life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication, that, in the treating physician’s or physicians’ reasonable medical judgment, will be most likely to be effective in ameliorating or correcting the conditions.

(b) The term does not include the failure to provide treatment, other than appropriate nutrition, hydration, or medication, to an infant when, in the treating physician’s or physicians’ reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of treatment would:

(A) merely prolong dying;

(B) not be effective in ameliorating or correcting all of the infant’s life-threatening conditions; or

(C) otherwise be futile in terms of the survival of the infant; or

(iii) the provision of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane. For purposes of this subsection (33), “infant” means an infant less than 1 year of age or an infant 1 year of age or older who has been continuously hospitalized since birth, who was born extremely prematurely, or who has a long-term disability. The reference to less than 1 year of age may not be construed to imply that treatment should be changed or discontinued when an infant reaches 1 year of age or to affect or limit any existing protections available under state laws regarding medical neglect of children 1 year of age or older.

(34) “Youth in need of care” means a youth who has been adjudicated or determined, after a hearing, to be or to have been abused, neglected, or abandoned.”

Section 2. Section 45-5-709, MCA, is amended to read:

“45-5-709. Immunity of child. (1) A person is not criminally liable or subject to proceedings under Title 41, chapter 5, for prostitution, promoting prostitution, or other nonviolent offenses if the person was a child at the time of the offense and committed the offense as a direct result of being a victim of human trafficking.

(2) A person who has engaged in commercial sexual activity is not criminally liable or subject to proceedings under Title 41, chapter 5, for prostitution or promoting prostitution if the person was a child at the time of the offense.

(3) A child who under subsection (1) or (2) is not subject to criminal liability or proceedings under Title 41, chapter 5, is presumed to be a youth in need of care under Title 41, chapter 3, *and is entitled to specialized services and care, which may include access to protective shelter, food, clothing, medical care, counseling, and crisis intervention services, if appropriate.*

(4) This section does not apply in a prosecution under 45-5-601 or a proceeding under Title 41, chapter 5, for patronizing a prostitute.”

Approved May 10, 2019

CHAPTER NO. 469

[HB 553]

AN ACT GENERALLY REVISING INFRASTRUCTURE LAWS; CREATING INFRASTRUCTURE POLICY; LIMITING AUTHORITY TO CREATE STATE DEBT; DISTINGUISHING BETWEEN MAJOR REPAIR AND CAPITAL DEVELOPMENT PROJECTS; REQUIRING THE ARCHITECTURE AND ENGINEERING DIVISION OF THE DEPARTMENT OF ADMINISTRATION TO SUBMIT A PRIORITIZED LIST OF ANTICIPATED MAJOR REPAIR PROJECTS PURSUANT TO CRITERIA; REQUIRING THE DIVISION TO REPORT CHANGES OF ALLOCATIONS FOR MAJOR REPAIR PROJECTS; REQUIRING A MINIMUM LEVEL OF FUNDING FOR MAJOR REPAIR PROJECTS PRIOR TO AUTHORIZING CAPITAL DEVELOPMENTS; PROVIDING FOR TRANSFERS FOR CAPITAL DEVELOPMENTS DEPENDING ON ANNUAL DEBT SERVICE; REQUIRING CERTAIN TRANSFERS BE CONSIDERED PRESENT LAW BASE; ESTABLISHING LONG-RANGE BUILDING PROGRAM ACCOUNTS FOR MAJOR REPAIR AND CAPITAL DEVELOPMENTS; REQUIRING INCREASED PROGRAMMATIC AND MAINTENANCE FUNDING BE APPROPRIATED IN CERTAIN CIRCUMSTANCES; PROVIDING DEFINITIONS; AMENDING SECTIONS 15-35-108, 16-11-119, 17-5-802, 17-7-111, 17-7-201, 17-7-202, 17-7-203, 17-7-204, 17-7-205, AND 90-4-625, MCA; REPEALING SECTION 17-7-206, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Major repair -- submission of list to legislature -- priorities. (1) By November 15 of the year preceding a regular legislative session, the division shall, on behalf of all state agencies, submit a list of anticipated major repair projects to the governor. The governor shall review the list of anticipated long-range building program eligible major repair projects recommended by the division and submit it to the legislature.

(2) The division shall ensure that the list identifies:

(a) single projects that cost more than \$150,000;

(b) multiple projects within a single building or facility that collectively cost more than \$150,000; and

(c) single projects that will be constructed in phases with an aggregate cost of more than \$150,000.

(3) Unless otherwise directed by the legislature, the division shall execute major repair projects from the prioritized list submitted to the legislature up to the level of appropriation made by the legislature.

(4) In prioritizing major repair projects, the division shall consider the results of the statewide facility inventory and condition assessment prepared pursuant to 17-7-202.

(5) In prioritizing major repair projects, the division shall allocate at least 80% of the funds that the legislature appropriates for major repair to:

(a) projects that address:

(i) any issue that impacts health and safety;

(ii) failing building envelopes;

(iii) structural deficiencies;

(iv) energy, utility, or water savings;

(b) projects that upgrade, repair, or replace:

(i) mechanical, plumbing, or control systems;

- (ii) electrical systems;
 - (iii) fixed equipment;
 - (iv) an essential building component; or
 - (v) infrastructure, including a utility tunnel, water line, gas line, sewer line, roof, parking lot, or road; or
- (c) projects that demolish and replace an existing building or facility that is in extensive disrepair and cannot be fixed by repair or maintenance.

(6) In prioritizing major repair projects, the division shall allocate no more than 20% of the funds that the legislature appropriates for major repair to:

- (a) remodeling and aesthetic upgrades to meet programmatic needs; or
- (b) construct an addition to an existing building or facility.

Section 2. Funding for major repair – emergency funding. (1) After the legislature approves the list of anticipated major repair projects, if an exigency arises that creates an unforeseen and critical need for a major repair project, the division may reallocate major repair funds to address the project.

(2) The division shall report any changes made in major repair allocations approved by the legislature to:

- (a) the legislative fiscal analyst and the budget director on a quarterly basis; and
- (b) the legislature at its next regular session.

Section 3. Minimum funding for major repair – restriction of capital developments – transfer to satisfy minimum as present law base. (1) The minimum level of funding for major repair projects is 0.6% of the replacement cost of existing long-range building program eligible buildings for each fiscal year.

(2) The legislature may not fund the design or construction of any new capital development projects, except to complete the funding of projects for which partial funding has been previously provided, until the legislature has estimated and appropriated the amount referred to in subsection (1) to fund major repair projects for long-range building program eligible buildings from the account established in 17-7-205 for each fiscal year.

(3) Sources for funding the amount referred to in subsection (1) are:

(a) revenue allocations into the account established in 17-7-205 of cigarette tax revenue allocated pursuant to 16-11-119 and coal severance taxes allocated pursuant to 15-35-108, as projected in the official revenue estimate provided in 5-5-227; and

(b) an appropriated transfer into the account from the general fund in the general appropriations act.

(4) The appropriated transfer in subsection (3)(b) to the account established in 17-7-205 to fund major repair projects is part of the present law base for purposes of Title 17, chapter 7, part 1, and must be sufficient to fund the amount referred to in subsection (1) when added to the account's revenue allocations in subsection (3)(a).

Section 4. Capital development funding – transfer as present law base. (1) As part of the executive budget prepared pursuant to 17-7-123, the governor shall propose annual transfers from the general fund into the account established in [section 5]. Except as provided in subsection (2), the amount of the proposed annual transfers are considered present law and must be equal to 1% of the amount of the certified unaudited state general fund revenue, including transfers into the general fund, as determined by the state treasurer on or before August 15 of the year preceding a legislative session less the:

(a) general fund debt service anticipated by the office of budget and program planning for each year of the biennium for issued general obligation bonds paid from the general fund as set forth in the state budget pursuant to 17-5-802; and

(b) projected general fund debt service for each year of the biennium for general obligation bonds paid from the general fund proposed in the executive budget.

(2) The governor may propose to reduce or increase the amount of the annual transfers proposed pursuant to subsection (1). Any proposed increase or decrease to the amount required in subsection (1) must be included in the executive budget request as a new proposal.

(3) The legislature may appropriate funds in the general appropriations act for transfer into the account established in [section 5] from the general fund for capital development projects based on the state fiscal condition.

(4) The appropriated transfer to the account established in [section 5] to fund capital developments is part of the base budget for purposes of Title 17, chapter 7, part 1.

(5) The department of administration shall transfer the annual amount appropriated by the legislature from the general fund to the capital developments long-range building program account established in [section 5] by August 15 of each fiscal year except as provided in subsection (6).

(6) The department of administration may not make the annual transfer if the executive has authorized transfers from the budget stabilization reserve fund established in 17-7-130 in the immediately preceding 11 months or if the transfer would result in reductions pursuant to 17-7-140.

(7) This section does not limit the ability of the legislature to authorize general obligation bonds or the board of examiners to issue and sell bonds authorized by previous legislatures, and has no effect on the pledge or security for general obligation bonds.

Section 5. Capital developments long-range building program account. (1) There is a capital developments long-range building program account in the capital projects fund type to fund capital developments.

(2) Interest earnings, project carryover funds, administrative fees, and miscellaneous revenue must be retained in the account.

(3) The legislature may transfer unencumbered funds from the account only to supplement funding local infrastructure.

(4) The state treasurer may temporarily borrow from the fund to address cash balance deficiencies in the general fund. A loan made to the general fund does not bear interest and must be recorded in the state accounting records. The fund may not be so impaired by a loan that all legal obligations against the fund cannot be met.

Section 6. Required funding for maintenance of newly authorized state buildings. (1) If construction of a new facility requires an immediate or future increase in state funding for program expansion or operations and maintenance, the legislature may not authorize the new facility unless it also appropriates funds for the increase in state funding for program expansion and operations and maintenance.

(2) (a) To the extent allowed by law, at the end of each fiscal year following approval of a new facility, but prior to receipt of its certificate of occupancy, the appropriation made pursuant to subsection (1) reverts to its originating fund. The appropriation is not subject to the provisions of 17-7-304.

(b) When a certificate of occupancy for a new facility is received prior to the end of the fiscal year, the amount of the appropriation made pursuant to subsection (1) that reverts to its originating fund is the prorated amount from the beginning of the fiscal year to the date of the receipt of the certificate of occupancy.

Section 7. Section 15-35-108, MCA, is amended to read:

“15-35-108. (Temporary) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the *major repair* long-range building program account established in 17-7-205.

(3) The amount of 0.85% in fiscal year 2018 and 0.88% in fiscal year 2019 must be allocated for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking and must be deposited in the basic library services account established in 22-1-202.

(4) The amount of 3.89% in fiscal year 2018 and 3.83% in fiscal year 2019 must be allocated to the department of natural resources and conservation for conservation districts and deposited in the conservation district account established in 76-15-106.

(5) The amount of 0.72% in fiscal year 2018 and 0.75% in fiscal year 2019 must be allocated to the Montana Growth Through Agriculture Act and deposited in the growth through agriculture account established in 90-9-104.

(6) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(7) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(8) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(9) The amount of 5.8% through June 30, 2019, and beginning July 1, 2019, the amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(10) After the allocations are made under subsections (2) through (9), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(11) (a) Subject to subsection (11)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

(b) The interest income of the coal severance tax permanent fund that is deposited in the general fund, less the annual transfer of \$1.275 million to the research and commercialization state special revenue account pursuant to 15-1-122(2), is statutorily appropriated, as provided in 17-7-502, on July 1 each year as follows:

(i) \$65,000 to the cooperative development center;

(ii) \$625,000 for the growth through agriculture program provided for in Title 90, chapter 9;

(iii) to the department of commerce:

(A) \$125,000 for a small business development center;

(B) \$50,000 for a small business innovative research program;

(C) \$425,000 for certified regional development corporations;

(D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman; and

(E) \$300,000 for export trade enhancement. (Terminates June 30, 2019--secs. 2, 3, Ch. 459, L. 2009.)

15-35-108. (Effective July 1, 2019) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the *major repair* long-range building program account established in 17-7-205.

(3) The amount of 0.90% in fiscal year 2020 and 0.93% in fiscal year 2021 and in each fiscal year thereafter must be allocated for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking and must be deposited in the basic library services account established in 22-1-202.

(4) The amount of 3.77% in fiscal year 2020 and 3.71% in fiscal year 2021 and in each fiscal year thereafter must be allocated to the department of natural resources and conservation for conservation districts and deposited in the conservation district account established in 76-15-106.

(5) The amount of 0.79% in fiscal year 2020 and 0.82% in fiscal year 2021 and in each fiscal year thereafter must be allocated to the Montana Growth Through Agriculture Act and deposited in the growth through agriculture account established in 90-9-104.

(6) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(7) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(8) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(9) The amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(10) After the allocations are made under subsections (2) through (9), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(11) All other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state."

Section 8. Section 16-11-119, MCA, is amended to read:

"16-11-119. Disposition of taxes -- statutory appropriation. (1) A sum equal to the amount necessary to purchase cigarette tax stamps must be deposited to or allocated from the state special revenue fund to the credit of the department from cigarette taxes collected under the provisions of 16-11-111, as provided in subsection (5) of this section.

(2) After the deposit or allocation in subsection (1), cigarette taxes collected under the provisions of 16-11-111 must, in accordance with the provisions of 17-2-124, be deposited as follows:

(a) 8.3% or \$2 million, whichever is greater, in the state special revenue fund to the credit of the department of public health and human services for the operation and maintenance of state veterans' nursing homes;

(b) 2.6% in the *major repair* long-range building program account provided for in 17-7-205;

(c) 44% in the state special revenue fund to the credit of the health and medicaid initiatives account provided for in 53-6-1201; and

(d) the remainder to the state general fund.

(3) If money in the state special revenue fund for the operation and maintenance of state veterans' nursing homes exceeds \$2 million at the end of the fiscal year, the excess must be transferred to the state general fund.

(4) The taxes collected on tobacco products other than cigarettes must in accordance with the provisions of 17-2-124 be deposited as follows:

(a) one-half in the state general fund; and

(b) one-half in the state special revenue fund account for health and medicaid initiatives provided for in 53-6-1201.

(5) Each fiscal year, a sum equal to the amount of money necessary to purchase cigarette tax stamps is statutorily appropriated, as provided in 17-7-502, from the state special revenue fund allocation in subsection (1) to the department for tax administration responsibilities."

Section 9. Section 17-5-802, MCA, is amended to read:

"17-5-802. Authority to authorize and issue general obligation bonds and notes. (1) When authorized by and within the limits of a bond act and as provided in this part, the board may issue and sell bonds of the state in the manner that it considers necessary and proper to provide funds for the purpose set forth in the bond act.

(2) The full faith and credit and taxing powers of the state must be pledged for the payment of all bonds and notes issued pursuant to this part, with all interest on the bonds and notes and premiums payable upon the redemption of the bonds and notes. All principal, interest, and redemption premium, if any, becoming due during a fiscal year must be included in the state budget for that fiscal year, and sufficient revenue must be appropriated for the payment of principal, interest, and redemption premiums from the general fund and, if the general fund is not sufficient, from any other funds of the state legally available for the payment of principal, interest, and redemption premiums. Bonds may not be issued to cover deficits incurred because appropriations exceeded anticipated revenue. Money transferred for the payment of bonds and notes must be deposited in the debt service account.

(3) *Except as provided in subsection (8), the legislature may not authorize general obligation bonds paid from the general fund if the issuance of those bonds would cause the total amount of the state debt to exceed 0.6% of the fair market value of all taxable property within the state.*

(4) *Except as provided in subsection (8), the legislature may not authorize new general obligation bonds paid from the general fund if the issuance of those bonds would create an obligation for fiscal year debt service on general obligation bonds paid from the general fund that have been issued that exceeds 1.5% of the amount of the certified unaudited state general fund revenue, including transfers into the general fund, as determined by the state treasurer on or before August 15 of the year preceding a legislative session.*

(5) *For purposes of subsections (3) and (4):*

(a) *“fair market value of all taxable property within the state” includes all real and personal property subject to ad valorem taxation within the state as enumerated in the department of revenue’s biennial report issued pursuant to 15-1-205.*

(b) *“general obligation bonds paid from the general fund” means bonds issued as general obligation bonds of the state that are payable from only the general fund and that are not payable from or secured by funds or specific sources of revenue outside the general fund.*

(c) *“state debt” means:*

(i) *the outstanding principal of issued general obligation bonds paid from the general fund as of July 1 of the current fiscal year;*

(ii) *the principal amount of all authorized but unissued general obligation bonds paid from the general fund; and*

(iii) *the total amount of unfunded actuarial accrued liability of the public retirement systems established in Title 19 that does not amortize in 30 years as identified in those systems’ most recent actuarial valuation of the assets and liabilities of their plans.*

(6) *For purposes of calculating the total fiscal year debt service of proposed bonds to determine whether the limitations described in subsection (4) are satisfied, the debt service amounts set forth in the fiscal note for the proposed bond act regarding the bonds are used and are final and conclusive.*

(7) *The passage and approval of a bond act is final and conclusive authority for the issuance of the bonds authorized under that act. The board of examiners may rely on that authority without regard to condition or circumstance existing as of the date of the issuance of the bonds.*

(8) *The limits on legislative authority to authorize general obligation bonds paid from the general fund do not apply to bonds authorized during a state of emergency or a state of disaster as provided in Title 10, chapter 3.”*

Section 10. Section 17-7-111, MCA, is amended to read:

“17-7-111. Preparation of state budget – agency program budgets – form distribution and contents. (1) (a) To prepare a state budget, the executive branch, the legislature, and the citizens of the state need information that is consistent and accurate. Necessary information includes detailed disbursements by fund type for each agency and program for the appropriate time period, recommendations for creating a balanced budget, and recommended disbursements and estimated receipts by fund type and fund category.

(b) Subject to the requirements of this chapter, the budget director and the legislative fiscal analyst shall by agreement:

(i) establish necessary standards, formats, and other matters necessary to share information between the agencies and to ensure that information is consistent and accurate for the preparation of the state’s budget; and

(ii) provide for the collection and provision of budgetary and financial information that is in addition to or different from the information otherwise required to be provided pursuant to this section.

(2) In the preparation of a state budget, the budget director shall, not later than the date specified in 17-7-112(1), distribute to all agencies the proper forms and instructions necessary for the preparation of budget estimates by the budget director. These forms must be prescribed by the budget director to procure the information required by subsection (3). The forms must be submitted to the budget director by the date provided in 17-7-112(2), or the agency’s budget is subject to preparation based upon estimates as provided in 17-7-112(5). The budget director may refuse to accept forms that do not comply

with the provisions of this section or the instructions given for completing the forms.

(3) The agency budget request must set forth a balanced financial plan for the agency completing the forms for each fiscal year of the ensuing biennium. The plan must consist of:

(a) a consolidated agency budget summary of funds subject to appropriation, as provided in 17-8-101, for the current base budget expenditures, including statutory appropriations, and for each present law adjustment and new proposal request setting forth the aggregate figures of the full-time equivalent personnel positions (FTE) and the budget, showing a balance between the total proposed disbursements and the total anticipated receipts, together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last-completed fiscal year and the fiscal year in progress;

(b) a schedule of the actual and projected receipts, disbursements, and solvency of each fund for the current biennium and estimated for the subsequent biennium;

(c) a statement of the agency mission and a statement of goals and objectives for each program of the agency. The goals and objectives must include, in a concise form, sufficient specific information and quantifiable information to enable the legislature to formulate an appropriations policy regarding the agency and its programs and to allow a determination, at some future date, on whether the agency has succeeded in attaining its goals and objectives.

(d) actual FTE and disbursements for the completed fiscal year of the current biennium, estimated FTE and disbursements for the current fiscal year, and the agency's request for the ensuing biennium, by program;

(e) actual disbursements for the completed fiscal year of the current biennium, estimated disbursements for the current fiscal year, and the agency's recommendations for the ensuing biennium, by disbursement category;

(f) for agencies with more than 20 FTE, a plan to reduce the proposed base budget for the general appropriations act and the proposed state pay plan to 95% of the current base budget or lower if directed by the budget director. Each agency plan must include base budget reductions that reflect the required percentage reduction by fund type for the general fund and state special revenue fund types. Exempt from the calculations of the 5% target amounts are legislative audit costs, administratively attached entities that hire their own staff under 2-15-121, and state special revenue accounts that do not transfer their investment earnings or fund balances to the general fund. The plan must include:

(i) a prioritized list of services that would be eliminated or reduced;

(ii) for each service included in the prioritized list, the savings that would result from the elimination or reduction; and

(iii) the consequences or impacts of the proposed elimination or reduction of each service.

(g) a reference for each new information technology proposal stating whether the new proposal is included in the approved agency information technology plan as required in 2-17-523;

(h) energy cost saving information as required by 90-4-616; and

(i) other information the budget director feels is necessary for the preparation of a budget.

(4) The budget director shall prepare and submit to the legislative fiscal analyst in accordance with 17-7-112:

(a) detailed recommendations for *capital developments* for:

(i) *local infrastructure projects*;

(ii) *funding for energy development-impacted areas; and*

(iii) the state long-range building program. Each recommendation *for the capital developments long-range building program* must be presented by institution, agency, or branch, by funding source, with a description of each proposed project.

(b) a statewide project budget summary as provided in 2-17-526;

(c) the proposed pay plan schedule for all executive branch employees at the program level by fund, with the specific cost and funding recommendations for each agency. Submission of a pay plan schedule under this subsection is not an unfair labor practice under 39-31-401.

(d) agency proposals for the use of cultural and aesthetic project grants under Title 22, chapter 2, part 3, the renewable resource grant and loan program under Title 85, chapter 1, part 6, the reclamation and development grants program under Title 90, chapter 2, part 11, and the treasure state endowment program under Title 90, chapter 6, part 7.

(5) The board of regents shall submit, with its budget request for each university unit in accordance with 17-7-112, a report on the university system bonded indebtedness and related finances as provided in this subsection (5). The report must include the following information for each year of the biennium, contrasted with the same information for the last-completed fiscal year and the fiscal year in progress:

(a) a schedule of estimated total bonded indebtedness for each university unit by bond indenture;

(b) a schedule of estimated revenue, expenditures, and fund balances by fiscal year for each outstanding bond indenture, clearly delineating the accounts relating to each indenture and the minimum legal funding requirements for each bond indenture; and

(c) a schedule showing the total funds available from each bond indenture and its associated accounts, with a list of commitments and planned expenditures from the accounts, itemized by revenue source and project for each year of the current and ensuing bienniums.

(6) (a) The department of revenue shall make Montana individual income tax information available by removing names, addresses, and social security numbers and substituting in their place a state accounting record identifier number. Except for the purposes of complying with federal law, the department may not alter the data in any other way.

(b) The department of revenue shall provide the name and address of a taxpayer on written request of the budget director when the values on the requested return, including estimated payments, are considered necessary by the budget director to properly analyze state revenue and are of a sufficient magnitude to materially affect the analysis and when the identity of the taxpayer is necessary to evaluate the effect of the return or payments on the analysis being performed."

Section 11. Section 17-7-201, MCA, is amended to read:

"17-7-201. Definitions. In this part, the following definitions apply:

(1) (a) "Building" includes a:

(i) building, facility, or structure constructed or purchased wholly or in part with state money;

(ii) building, facility, or structure at a state institution;

(iii) building, facility, or structure owned or to be owned by a state agency, including the department of transportation.

(b) The term does not include a:

(i) building, facility, or structure owned or to be owned by a county, city, town, school district, or special improvement district;

(ii) facility or structure used as a component part of a highway or water conservation project.

(2) *“Capital development” means a:*

(a) *renovation, construction, alteration, site, or utility project with a total cost of \$2.5 million or more;*

(b) *new facility with a construction cost of \$250,000 or more; or*

(c) *purchase of real property for which an appropriation is required to fund the purchase.*

(2)(3) *“Construction” includes construction, repair, alteration, renovation, and equipping and furnishing during construction, repair, or alteration.*

(4) *“Division” means the architecture and engineering division of the department of administration.*

(3)(5) *“High-performance building” means a building that integrates and optimizes all major high-performance building attributes, including but not limited to:*

(a) *energy efficiency;*

(b) *durability;*

(c) *life-cycle performance; and*

(d) *occupant productivity.*

(4)(6) (a) *“Long-range building program-eligible building” means a building, facility, or structure:*

(i) *owned by a state agency and for which the operation and maintenance are funded with state general fund money; or*

(ii) *that supports academic missions of the university system and for which the operation and maintenance are funded with current unrestricted university funds.*

(b) *The term does not include a building, facility, or structure:*

(i) *owned by a state agency and for which the operation and maintenance are entirely funded with state special revenue, federal special revenue, or proprietary funds; or*

(ii) *that supports nonacademic functions of the university system and for which the operation and maintenance are funded from nonstate and nontuition sources.*

(7) (a) *“Major repair” means:*

(i) *a renovation, alteration, replacement, or repair project with a total cost of less than \$2.5 million;*

(ii) *a site or utility improvement with a total cost of less than \$2.5 million;*
or

(iii) *a new facility with a total construction cost of less than \$250,000.*

(b) *The term does not include operations and maintenance as defined in this section.*

(8) (a) *“New facility” means the construction of a new building on state property regardless of funding source and includes:*

(i) *an addition to an existing building; and*

(ii) *the enclosure of space that was not previously fully enclosed.*

(b) *The term does not include the replacement of state-owned space that is demolished or that is otherwise removed from state use, if the total construction cost of the replacement space is less than \$2.5 million.*

(9) *“Operations and maintenance” means operational costs and regular, ongoing, and routine repairs and maintenance funded in an agency operating budget that does not extend the capacity, function, or lifespan of a facility.*

(10) *“Replacement cost of existing long-range building program eligible building” means the current replacement value of all long-range building program eligible buildings included in the statewide facility inventory and condition assessment as provided in 17-7-202.”*

Section 12. Section 17-7-202, MCA, is amended to read:

“17-7-202. Preparation of building programs and submission to department of administration – statewide facility inventory and condition assessment. (1) Before July 1 of ~~each even-numbered year the year preceding a legislative session~~, each state agency and institution shall submit to the ~~department of administration architecture and engineering division of the department of administration~~ *department division*, on forms furnished by the ~~department division~~, a proposed long-range building program *for major repair projects and capital developments*, if any, for the agency or institution. Each agency and institution shall furnish any additional information requested by the ~~department division~~ relating to the utilization of or need for ~~buildings major repair projects and capital developments~~.

(2) (a) Except as provided in subsection (3), the ~~department division~~ shall compile and maintain a statewide facility inventory and condition assessment that:

(i) for each state-owned building:

(A) identifies its location and total square footage;

(B) identifies the agency or agencies using or occupying the building and how much square footage each agency uses or occupies;

(C) lists the current replacement value of the building in its entirety and each agency's portion of the building;

(D) identifies whether the building is a long-range building program-eligible building;

(ii) for each long-range building program-eligible building:

(A) includes a facility condition assessment of the building and an itemized list of the building's deficiencies; and

(B) compares the building's current building deficiency ratio to its deficiency ratio in the previous biennium.

(b) The ~~department division~~ may contract with a private vendor to collect, analyze, and compile the building information required in this subsection (2).

(c) The facility inventory and condition assessment must be updated as determined by the ~~department division~~.

(d) The ~~department division~~ may incorporate in the statewide facility inventory and condition assessment any facility condition assessment or similar document compiled by an agency.

(e) The ~~department division~~ shall provide the statewide facility inventory and condition assessment, including a calculation of the deferred maintenance backlog and overall building deficiency ratio of the long-range building program-eligible buildings, to the office of budget and program planning and the legislative finance committee by September 1 of ~~each even-numbered year the year preceding a legislative session~~ in an electronic format.

(3) The ~~department division~~ is not required to include a state-owned building that has a current replacement value of \$150,000 or less in the facility inventory and condition assessment.

(4) The ~~department division~~ shall examine the information furnished by each agency and institution and shall gather whatever additional information is necessary and conduct whatever surveys are necessary in order to provide a factual basis for determining the need for and the feasibility of ~~the construction of buildings major repair projects and capital developments~~. The information compiled by the ~~department division~~ shall be submitted to the governor before ~~December~~ *October* 1 of ~~each even-numbered year the year preceding a legislative session~~.

Section 13. Section 17-7-203, MCA, is amended to read:

"17-7-203. Submission to legislature. During the first week of each regular legislative session, the governor shall submit to the legislature:

(1) the requests of all state agencies and institutions compiled in the form of a comprehensive, long-range proposed building program *for capital developments*, including:

- (a) the purpose for which each building would be used;
- (b) the estimated cost of each building, including necessary land acquisition;
- (c) the reasons given by the institution or agency for needing each building;
- (d) a priority order recommended by the agency or institution for each building;
- (e) the recommendation of the institution or agency as to when each building is needed;

(f) any comments of the governor;

(2) a building program *for capital developments* proposed by the governor for the forthcoming biennium in the form of a capital ~~construction~~ *developments* budget, including:

- (a) the purpose for which each building would be used;
- (b) the estimated cost of each building and necessary land acquisition;
- (c) the reasons for the governor's recommendation to construct each building during the forthcoming biennium;
- (d) the proposed method of financing for each building;
- (e) any long-range building plans;
- (f) any changes in the law necessary to insure an effective, well-coordinated building program for the state.

(3) *the list of anticipated major repair projects submitted by the architecture and engineering division pursuant to [section 1]."*

Section 14. Section 17-7-204, MCA, is amended to read:

"17-7-204. Long-range building program for capital developments. The executive budget for all state agencies must include detailed recommendations for the state long-range building program *for capital developments* presented in order of importance by fund type. Each recommendation must be presented by agency or branch by funding source, with a description of each proposed ~~project capital development~~, an explanation of the problem to be addressed by the proposed project, alternative methods of addressing the problem, the rationale for the selection of a particular alternative, and a projection of increased operating costs incident to the project for the next three bienniums."

Section 15. Section 17-7-205, MCA, is amended to read:

"17-7-205. Long-range Major repair long-range building program account. (1) There is a *major repair* long-range building program account in the capital projects fund type *to fund major repair projects*. [The account is subject to legislative fund transfer.]

(2) Cigarette tax revenue is deposited in the account pursuant to 16-11-119.

(3) Coal severance taxes *are allocated to and deposited in* the account under 15-35-108 ~~may be appropriated for the long-range building program or debt service payments on building projects. Coal severance taxes required for general obligation bond debt service may be transferred to the debt service fund.~~

(4) Interest earnings, project carryover funds, administrative fees, and miscellaneous revenue must be retained in the account. (Bracketed language in subsection (1) terminates June 30, 2019--sec. 28, Ch. 6, Sp. L. November 2017.)"

Section 16. Section 90-4-625, MCA, is amended to read:

“90-4-625. Energy conservation program debt service account.

(1) There is an energy conservation program debt service account within the debt service fund type established in 17-2-102.

(2) The department shall transfer to the *major repair* long-range building program account created in 17-7-205 money in the energy conservation debt service account that is in excess of the amount that may be needed to satisfy the principal and interest payments on the energy conservation program bonds.”

Section 17. Repealer. The following section of the Montana Code Annotated is repealed:

17-7-206. Maintenance for state buildings.

Section 18. Codification instruction. [Sections 1 through 6] are intended to be codified as an integral part of Title 17, chapter 7, part 2, and the provisions of Title 17, chapter 7, part 2, apply to [sections 1 through 6].

Section 19. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 20. Effective date. [This act] is effective July 1, 2019.

Approved May 10, 2019

CHAPTER NO. 470

[HB 555]

AN ACT REVISING LAWS RELATED TO UTILIZATION REVIEW; REDUCING TIME PERIODS FOR CERTAIN UTILIZATION REVIEW DETERMINATIONS; PROVIDING DEFINITIONS; AMENDING SECTIONS 33-32-101, 33-32-102, 33-32-211, 33-32-212, AND 33-32-215, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 33-32-101, MCA, is amended to read:

“33-32-101. Purpose. The legislature finds and declares that it is the purpose of this chapter to:

(1) promote the delivery of quality health care in a ~~cost-effective~~ *cost-effective* manner;

(2) foster greater coordination between health care providers, third-party payors, and others who conduct utilization review activities;

(3) ensure *timely* access to health care services;

(4) *preserve the integrity of the health care provider and patient relationship;*

(4)(5) protect patients, employers, and health care providers by:

(a) ensuring that utilization review activities result in informed decisions on the appropriateness of medical care made by those best qualified to be involved in the utilization review process; *and*

(b) *establishing the use of written clinical criteria for utilization review programs and reviews by appropriate health care providers to ensure a fair and transparent process for patients; and* ~~and~~

(5)(6) establish *written* standards and *clinical* criteria for the structure and operation of utilization review and benefit determination processes designed to facilitate ongoing assessment and management of health care services.”

Section 2. Section 33-32-102, MCA, is amended to read:

“33-32-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Adverse determination", except as provided in 33-32-402, means:

(a) a determination by a health insurance issuer or its designated utilization review organization that, based on the provided information and after application of any utilization review technique, a requested benefit under the health insurance issuer's health plan is denied, reduced, or terminated or that payment is not made in whole or in part for the requested benefit because the requested benefit does not meet the health insurance issuer's requirement for medical necessity, appropriateness, ~~health care setting, level of care, or level of effectiveness~~, *health care setting, level of care, or level of effectiveness* or is determined to be experimental or investigational;

(b) a denial, reduction, termination, or failure to provide or make payment in whole or in part for a requested benefit based on a determination by a health insurance issuer or its designated utilization review organization of a person's eligibility to participate in the health insurance issuer's health plan;

(c) any prospective review or retrospective review of a benefit determination that denies, reduces, or terminates or fails to provide or make payment in whole or in part for a benefit; or

(d) a rescission of coverage determination.

(2) "Ambulatory review" means a utilization review of health care services performed or provided in an outpatient setting.

(3) "Authorized representative" means:

(a) a person to whom a covered person has given express written consent to represent the covered person;

(b) a person authorized by law to provide substituted consent for a covered person; or

(c) a family member of the covered person or the covered person's treating health care provider only if the covered person is unable to provide consent.

(4) "Case management" means a coordinated set of activities conducted for individual patient management of serious, complicated, protracted, or otherwise complex health conditions.

(5) "Certification" means a determination by a health insurance issuer or its designated utilization review organization that an admission, availability of care, continued stay, or other health care service has been reviewed and, based on the information provided, satisfies the health insurance issuer's requirements for medical necessity, appropriateness, ~~health care setting, level of care, and level of effectiveness~~, *health care setting, level of care, and level of effectiveness*.

(6) "Clinical peer" means a physician or other health care provider who:

(a) holds a nonrestricted license in a state of the United States; and

(b) is trained or works in the same or a similar specialty to the specialty that typically manages the medical condition, procedure, or treatment under review.

(7) "Clinical review criteria" means the *written policies*, written screening procedures, decision abstracts, *determination rules*, clinical and medical protocols, ~~and practice guidelines, or any other criteria or rationale~~ used by a health insurance issuer or its designated utilization review organization to determine the *medical necessity and appropriateness* of health care services.

(8) "Concurrent review" means a utilization review conducted during a patient's stay or course of treatment in a facility, the office of a health care professional, or another inpatient or outpatient health care setting.

(9) "Cost sharing" means the share of costs that a covered member pays under the health insurance issuer's health plan, including maximum out-of-pocket, deductibles, coinsurance, copayments, or similar charges,

but does not include premiums, balance billing amounts for out-of-network providers, or the cost of noncovered services.

(10) "Covered benefits" or "benefits" means those health care services to which a covered person is entitled under the terms of a health plan.

(11) "Covered person" means a policyholder, a certificate holder, a member, a subscriber, an enrollee, or another individual participating in a health plan.

(12) "Discharge planning" means the formal process for determining, prior to discharge from a facility, the coordination and management of the care that a patient receives after discharge from a facility.

(13) "Emergency medical condition" has the meaning provided in 33-36-103.

(14) "Emergency services" has the meaning provided in 33-36-103.

(15) "External review" describes the set of procedures provided for in Title 33, chapter 32, part 4.

(16) "Final adverse determination" means an adverse determination involving a covered benefit that has been upheld by a health insurance issuer or its designated utilization review organization at the completion of the health insurance issuer's internal grievance process as provided in Title 33, chapter 32, part 3.

(17) "Grievance" means a written complaint or an oral complaint if the complaint involves an urgent care request submitted by or on behalf of a covered person regarding:

(a) availability, delivery, or quality of health care services, including a complaint regarding an adverse determination made pursuant to utilization review;

(b) claims payment, handling, or reimbursement for health care services; or

(c) matters pertaining to the contractual relationship between a covered person and a health insurance issuer.

(18) "Health care provider" or "provider" means a person, corporation, facility, or institution licensed by the state to provide, or otherwise lawfully providing, health care services, including but not limited to:

(a) a physician, physician assistant, *advanced practice registered nurse*, health care facility as defined in 50-5-101, osteopath, dentist, nurse, optometrist, chiropractor, podiatrist, physical therapist, psychologist, licensed social worker, speech pathologist, audiologist, licensed addiction counselor, or licensed professional counselor; and

(b) an officer, employee, or agent of a person described in subsection (18)(a) acting in the course and scope of employment.

(19) "Health care services" means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease, *including the provision of pharmaceutical products or services or durable medical equipment*.

(20) "Health insurance issuer" has the meaning provided in 33-22-140.

(21) "*Medical necessity*" means *health care services that a health care provider exercising prudent clinical judgment would provide to a patient for the purpose of preventing, evaluating, diagnosing, treating, curing, or relieving a health condition, illness, injury, or disease or its symptoms and that are:*

(a) *in accordance with generally accepted standards of practice;*

(b) *clinically appropriate in terms of type, frequency, extent, site, and duration and are considered effective for the patient's illness, injury, or disease; and*

(c) *not primarily for the convenience of the patient or health care provider and not more costly than an alternative service or sequence of services at least as*

likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the patient's illness, injury, or disease.

(21)(22) "Network" means the group of participating providers providing services to a managed care plan.

(22)(23) "Participating provider" means a health care provider who, under a contract with a health insurance issuer or with its contractor or subcontractor, has agreed to provide health care services to covered persons with the expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly or indirectly from the health insurance issuer.

(23)(24) "Person" means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, or any similar entity or combination of entities in this subsection.

(25) "Preservice claim" means a request for benefits or payment from a health insurance issuer for health care services that, under the terms of the health insurance issuer's contract of coverage, requires authorization from the health insurance issuer or from the health insurance issuer's designated utilization review organization prior to receiving the services.

(24)(26) "Prospective review" means a utilization review conducted of a preservice claim prior to an admission or a course of treatment.

(25)(27) (a) "Rescission" means a cancellation or the discontinuance of coverage under a health plan that has a retroactive effect.

(b) The term does not include a cancellation or discontinuance under a health plan if the cancellation or discontinuance of coverage:

- (i) has only a prospective effect; or
- (ii) is effective retroactively to the extent that the cancellation or discontinuance is attributable to a failure to timely pay required premiums or contributions toward the cost of coverage.

(26)(28) (a) "Retrospective review" means a review of medical necessity conducted after services have been provided to a covered person.

(b) The term does not include the review of a claim that is limited to an evaluation of reimbursement levels, veracity of documentation, accuracy of coding, or adjudication for payment.

(27)(29) "Second opinion" means an opportunity or requirement to obtain a clinical evaluation by a health care provider other than the one originally making a recommendation for a proposed health care service to assess the clinical necessity and appropriateness of the initial proposed health care service.

(28)(30) "Stabilize" means, with respect to an emergency condition, to ensure that no material deterioration of the condition is, within a reasonable medical probability, likely to result from or occur during the transfer of the individual from a facility.

(29)(31) (a) "Urgent care request" means a request for a health care service or course of treatment with respect to which the time periods for making a nonurgent care request determination could:

- (i) seriously jeopardize the life or health of the covered person or the ability of the covered person to regain maximum function; or
- (ii) subject the covered person, in the opinion of a health care provider with knowledge of the covered person's medical condition, to severe pain that cannot be adequately managed without the health care service or treatment that is the subject of the request.

(b) Except as provided in subsection (29)(c) (31)(c), in determining whether a request is to be treated as an urgent care request, an individual acting on behalf of the health insurance issuer shall apply the judgment of a prudent lay person who possesses an average knowledge of health and medicine.

(c) Any request that a health care provider with knowledge of the covered person's medical condition determines is an urgent care request within the meaning of subsection ~~(29)(a)~~ (31)(a) must be treated as an urgent care request.

~~(30)~~(32) "Utilization review" means a set of formal techniques designed to monitor the use of or to evaluate the clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures, or settings. Techniques may include ambulatory review, prospective review, second opinions, certification, concurrent review, case management, discharge planning, or retrospective review.

~~(31)~~(33) "Utilization review organization" means an entity that conducts utilization review, ~~other than a health insurance issuer performing a review for its own health plans for one or more of the following:~~

(a) *an employer with employees who are covered under a health benefit plan or health insurance policy;*

(b) *a health insurance issuer providing review for its own health plans or for the health plans of another health insurance issuer;*

(c) *a preferred provider organization or health maintenance organization;* and

(d) *any other individual or entity that provides, offers to provide, or administers hospital, outpatient, medical, or other health benefits to a person treated by a health care provider under a policy, plan, or contract."*

Section 3. Section 33-32-211, MCA, is amended to read:

"33-32-211. Procedures for standard utilization review and benefit determinations – notices. (1) A health insurance issuer shall establish ~~written procedures, as provided in this section;~~ *written procedures and clinical review criteria* for conducting standard utilization reviews and making benefit determinations on requests for benefits submitted to the health insurance issuer by covered persons or their authorized representatives. The written procedures must also include provisions for notifying covered persons or, if applicable, their authorized representatives of the health insurance issuer's determinations with respect to these requests within the timeframes specified in this section.

(2) (a) Subject to subsection (2)(c), for prospective review determinations, a health insurance issuer shall make the determination and notify the covered person or, if applicable, the covered person's authorized representative of the determination, whether the health insurance issuer certifies the provision of the benefit or not, within a reasonable period of time appropriate to the covered person's medical condition. The notification must be made not later than ~~15~~ 7 business days after the date the health insurance issuer receives the request *or not later than 7 business days after the health insurance issuer receives all information under subsection (2)(d) necessary to make a determination.*

(b) If the determination is an adverse determination, the health insurance issuer shall provide notification of the adverse determination *in writing* in accordance with subsection (8).

(c) The time period for making a determination and notifying the covered person or, if applicable, the covered person's authorized representative of the determination pursuant to subsection (2)(a) may be extended one time by the health insurance issuer for up to ~~15~~ 7 business days if the health insurance issuer:

(i) determines that an extension is necessary due to matters beyond the health insurance issuer's control; and

(ii) notifies the covered person or, if applicable, the covered person's authorized representative, prior to the expiration of the initial ~~15-day~~ 7-business-day period, of the circumstances requiring the extension of time

and of the date by which the health insurance issuer expects to make a determination.

(d) If the extension under subsection (2)(c) is necessary because of the failure of the covered person or, if applicable, the covered person's authorized representative to submit information necessary to reach a determination on the request, the notice of extension must:

(i) describe specifically the required information necessary to complete the request; and

(ii) give the covered person or, if applicable, the covered person's authorized representative at least ~~45~~ 45 days after the date of receipt of the notice to provide the specified information.

(3) (a) If the health insurance issuer receives from a covered person or, if applicable, the covered person's authorized representative a prospective review request that fails to meet the health insurance issuer's filing procedures, the health insurance issuer shall notify the covered person or, if applicable, the covered person's authorized representative of this failure and provide in the notice any information regarding the proper procedures to be followed for filing a request.

(b) The notice required under subsection (3)(a) must be provided as soon as possible but not later than ~~5 days~~ 3 days after the date of the failure. ~~The health insurance issuer may provide the notice orally or, if requested by the covered person or the covered person's authorized representative, in writing or electronically. The health insurance issuer may provide the notice orally or, if requested by the covered person or the covered person's authorized representative, in writing or electronically.~~

(c) To qualify for the provisions of this subsection (3) related to a failed filing procedure, the communication must:

(i) have been sent by a covered person or, if applicable, the covered person's authorized representative and received by a person or an organizational unit of the health insurance issuer responsible for handling benefit matters; and

(ii) refer to a specific covered person, a specific medical condition or symptom, and a specific health care service, treatment, or health care provider for which certification is being requested.

(4) For concurrent review determinations, if a health insurance issuer has certified an ongoing course of treatment to be provided over a period of time or a specified number of treatments:

(a) any reduction or termination by the health insurance issuer during the course of treatment before the end of the period or the specified number of treatments, other than by health plan amendment or termination of the health plan, constitutes an adverse determination; and

(b) the health insurance issuer shall notify the covered person or, if applicable, the covered person's authorized representative of the adverse determination in accordance with subsection (8) at a time sufficiently in advance of the reduction or termination to allow the covered person or, if applicable, the covered person's authorized representative to:

(i) file a grievance requesting a review of the adverse determination pursuant to Title 33, chapter 32, parts 3 and 4; and

(ii) obtain a determination with respect to the review of the adverse determination before the benefit is reduced or terminated.

(5) The health care service or treatment that is the subject of the adverse determination must be continued without liability to the covered person pending a determination under the internal review request made pursuant to Title 33, chapter 32, part 3.

(6) (a) For retrospective review determinations, a health insurance issuer shall make the determination no later than 30 days after the date of receiving the benefit request.

(b) If the determination is an adverse determination, the health insurance issuer shall provide notice of the adverse determination to the covered person or, if applicable, the covered person's authorized representative in accordance with subsection (8).

(c) The time period for making a determination and notifying the covered person or, if applicable, the covered person's authorized representative of the determination pursuant to subsection (6)(a) may be extended one time by the health insurance issuer for up to 15 days if the health insurance issuer:

(i) determines that an extension is necessary due to matters beyond the health insurance issuer's control; and

(ii) notifies the covered person or, if applicable, the covered person's authorized representative, prior to the expiration of the initial 30-day period, of the circumstances requiring the extension of time and of the date by which the health insurance issuer expects to make a determination.

(d) If the extension under subsection (6)(c) is necessary because of the failure of the covered person or, if applicable, the covered person's authorized representative to submit information necessary to reach a determination on the request, the notice of extension must:

(i) describe specifically the information required to complete the request; and

(ii) give the covered person or, if applicable, the covered person's authorized representative at least ~~45~~ 45 days after the date of receipt of the notice to provide the specified information.

(7) (a) For purposes of this section, the period within which a determination must be made begins on the date the request is received by the health insurance issuer in accordance with the health insurance issuer's procedures, established pursuant to 33-32-207, for filing a request. The date the request is received by the health insurance issuer must be counted without regard to whether all of the information necessary to make the determination accompanies the filing of the request.

(b) If the period for making the determination under this section is extended due to the failure of the covered person or, if applicable, the covered person's authorized representative to submit the information necessary to make the determination, the period for making the determination is counted from the date on which the health insurance issuer sends the notification of the extension to the covered person or, if applicable, the covered person's authorized representative until the earlier of:

(i) the date on which the covered person or, if applicable, the covered person's authorized representative responds to the request for additional information; or

(ii) the date on which the specified information was to have been submitted.

(c) If the covered person or, if applicable, the covered person's authorized representative fails to submit the information before the end of the extension period, as specified in this section, the health insurance issuer may deny the certification of the requested benefit.

(8) A notification of an adverse determination under this section must, in a manner calculated to be understood by the covered person or, if applicable, the covered person's authorized representative, set forth:

(a) information sufficient to identify the benefit request or claim involved and, if applicable, the date of service, the health care provider, and the claim amount;

(b) a statement describing the availability, upon request, of the diagnosis code and its corresponding meaning and the treatment code and its corresponding meaning. On receiving a request for a diagnosis or treatment code, the health insurance issuer shall provide the information to the covered person or, if applicable, the covered person's authorized representative as soon as practicable. A health insurance issuer may not consider a request for the diagnosis code and treatment information, in itself, to be a request to file a grievance for review of an adverse determination pursuant to Title 33, chapter 32, part 3, or a request for external review as outlined in Title 33, chapter 32, part 4.

(c) the specific rationale behind the adverse determination, including the denial code and its corresponding meaning, as well as a description of the health insurance issuer's standard, if any, that was used in denying the benefit request or claim;

(d) a reference to the specific plan provision on which the determination is based;

(e) a description of any additional material or information necessary for the covered person or, if applicable, the covered person's authorized representative to complete the benefit request, including an explanation of why the material or information is necessary to complete the request;

(f) a description of the health insurance issuer's grievance procedures established pursuant to Title 33, chapter 32, part 3, including any time limits applicable to those procedures;

(g) a copy of any internal rule, guideline, protocol, or other similar criteria that the health insurance issuer may have relied on to make the adverse determination. Alternatively, the health insurance issuer may provide a statement that a specific rule, guideline, protocol, or other similar criteria was relied on to make the adverse determination and that a copy of the rule, guideline, protocol, or other similar criteria will be provided free of charge to the covered person on request.

(h) an explanation of the scientific or clinical judgment for making the adverse determination if the adverse determination is based on a medical necessity or experimental or investigational treatment or similar exclusion or limit. Alternatively, the health insurance issuer may provide a statement that an explanation will be provided to the covered person free of charge on request. The explanation under this subsection (8)(h) must apply the terms of the health plan to the covered person's medical circumstances.

(i) a statement explaining the availability of further assistance from the commissioner's office and the right of the covered person or, if applicable, the covered person's authorized representative to contact the commissioner's office at any time for assistance or, on completion of the health insurance issuer's grievance procedure and the external review process as provided under Title 33, chapter 32, parts 3 and 4, to file a civil suit in a court of competent jurisdiction. The statement must include contact information for the commissioner's office.

(9) (a) A health insurance issuer shall provide the notice required under this section in a culturally and linguistically appropriate manner as required in accordance with federal regulations, including 45 CFR 147.136(e), and rules adopted pursuant to Title 33, chapter 32, part 3.

(b) To satisfy the provisions of subsection (9)(a), the health insurance issuer shall, at a minimum:

(i) provide oral language services, such as a telephone assistance hotline, that include answering questions in any applicable non-English language and providing assistance with filing benefit requests, claims, and appeals in any applicable non-English language;

(ii) provide, upon request, a notice in any applicable non-English language; and

(iii) include in the English version of the notice a prominently displayed statement in any applicable non-English language clearly indicating how to access the language services provided by the health insurance issuer.

(c) For purposes of this subsection (9), with respect to any United States county to which a notice is sent, a non-English language is an applicable non-English language if 10% or more of the population residing in the county is literate only in the same non-English language, as determined in federal guidance.

(10) ~~If the adverse determination is a rescission~~ *If the adverse determination is a rescission*, the health insurance issuer shall provide, in addition to any applicable disclosures required under this section, in a notice sent at least 30 days in advance of implementing the rescission decision:

(a) clear identification of the alleged fraudulent act, practice, or omission or the intentional misrepresentation of material fact;

(b) an explanation of why the act, practice, or omission was fraudulent or was an intentional misrepresentation of a material fact;

(c) the date when the advance notice period ends and the date to which the coverage is to be retroactively rescinded;

(d) notice that the covered person or, if applicable, the covered person's authorized representative may immediately file a grievance with the health insurance issuer requesting a review of the rescission; and

(e) a description of the health insurance issuer's grievance procedures, including any time limits applicable to these procedures.

(11) A health insurance issuer may provide the notices required under this section in writing or electronically."

Section 4. Section 33-32-212, MCA, is amended to read:

"33-32-212. Procedures for expedited utilization review and benefit determinations. (1) With respect to urgent care requests and concurrent review urgent care requests, a health insurance issuer shall establish ~~written procedures~~ *written procedures and clinical review criteria* for receiving benefit requests from covered persons or, if applicable, their authorized representatives, for conducting an expedited utilization review and making benefit determinations, and for notifying the covered persons or their authorized representatives of the expedited utilization review and benefit determinations.

(2) (a) The procedures established under subsection (1) must include a requirement for the health insurance issuer to provide that, in the case of a failure by a covered person or, if applicable, the covered person's authorized representative to follow the health insurance issuer's procedures for filing an urgent care request, the covered person or the covered person's authorized representative must be notified of the failure and the proper procedures to be followed for filing the request.

(b) The notice required under subsection (2)(a):

(i) must be provided to the covered person or, if applicable, the covered person's authorized representative not later than 24 hours after receipt of the request; and

(ii) may be made orally, unless the covered person or, if applicable, the covered person's authorized representative requests the notice in writing or electronically.

(c) To qualify for the provisions of this subsection (2) related to a failed filing procedure, the communication must:

(i) be sent by a covered person or, if applicable, the covered person's authorized representative and received by a person or organizational unit of the health insurance issuer responsible for handling benefit matters; and

(ii) contain a reference to a specific covered person, a specific medical condition or symptom, and a specific health care service, treatment, or health care provider for which approval is being requested.

(3) (a) For an urgent care request, unless the covered person or, if applicable, the covered person's authorized representative has failed to provide sufficient information for the health insurance issuer to determine whether or to what extent the benefits requested are covered benefits or payable under the health insurance issuer's health plan, the health insurance issuer shall notify the covered person or, if applicable, the covered person's authorized representative as soon as possible, taking into account the medical condition of the covered person, but no later than ~~72 hours~~ 48 hours after the receipt of the request by the health insurance issuer.

(b) With respect to the request, the health insurance issuer shall state in the notification whether or not the determination is an adverse determination. If the health insurance issuer's determination is an adverse determination, the notice must comply with the provisions of subsection (7).

(4) (a) If the covered person or, if applicable, the covered person's authorized representative has failed to provide sufficient information for the health insurance issuer to make a determination, the health insurance issuer shall notify the covered person or, if applicable, the covered person's authorized representative either orally or, if requested by the covered person or the covered person's authorized representative, in writing or electronically of this failure and identify what specific information is needed. This notification must be made as soon as possible but not later than 24 hours after receipt of the request.

(b) The health insurance issuer shall, taking into account the circumstances, provide the covered person or, if applicable, the covered person's authorized representative with a reasonable period of time to submit the necessary information. The reasonable period may not end less than 48 hours after the health insurance issuer notifies the covered person or, if applicable, the covered person's authorized representative of the failure to submit sufficient information as provided in subsection (4)(a).

(c) A health insurance issuer shall, in cases in which more information is required as provided in subsection (4)(a), notify the covered person or, if applicable, the covered person's authorized representative of its determination with respect to the urgent care request as soon as possible but not later than ~~48~~ 24 hours after the earlier of:

(i) the health insurance issuer's receipt of the requested information; or

(ii) the end of the period provided for the covered person or, if applicable, the covered person's authorized representative to submit the requested information.

(d) If the covered person or, if applicable, the covered person's authorized representative fails to submit the information before the end of the period of the extension, as specified in subsection (4)(b), the health insurance issuer may deny the certification of the requested benefit.

(e) If the health insurance issuer's determination is an adverse determination, the health insurance issuer shall provide notice of the adverse determination in accordance with subsection (7).

(5) (a) For concurrent review urgent care requests involving a request by the covered person or, if applicable, the covered person's authorized representative to extend the course of treatment beyond the initial period of time or the number

of treatments, if the request is made at least 24 hours prior to the expiration of the prescribed period of time or number of treatments, the health insurance issuer shall make a determination with respect to the request and notify the covered person or, if applicable, the covered person's authorized representative of the determination, whether it is an adverse determination or not, as soon as possible, taking into account the covered person's medical condition, but not later than 24 hours after the health insurance issuer's receipt of the request.

(b) If the health insurance issuer's determination is an adverse determination, the health insurance issuer shall provide notice of the adverse determination as provided in subsection (7).

(6) For the purposes of this section, the time period within which a determination must be made begins on the date *and at the time* the request is filed with the health insurance issuer in accordance with the health insurance issuer's procedures established pursuant to 33-32-207 for filing a request. The date *and time* the request is received by the health insurance issuer must be counted without regard to whether all of the information necessary to make the determination accompanies the filing of the request.

(7) A notification of an adverse determination under this section must, in a manner calculated to be understood by the covered person or, if applicable, the covered person's authorized representative, set forth:

(a) information sufficient to identify the benefit request or claim involved and, if applicable, the date of service, the health care provider, and the claim amount;

(b) a statement describing the availability, upon request, of the diagnosis code and its corresponding meaning and the treatment code and its corresponding meaning. On receiving a request for a diagnosis or treatment code, the health insurance issuer shall provide the information as soon as practicable. A health insurance issuer may not consider a request for the diagnosis code and treatment information, in itself, to be a request to file a grievance for review of an adverse determination pursuant to Title 33, chapter 32, part 3, or a request for external review as outlined in Title 33, chapter 32, part 4.

(c) the specific rationale behind the adverse determination, including the denial code and its corresponding meaning, as well as a description of the health insurance issuer's standard, if any, that was used in denying the benefit request or claim;

(d) a reference to the specific plan provisions on which the determination is based;

(e) a description of any additional material or information necessary for the covered person or, if applicable, the covered person's authorized representative to complete the request, including an explanation of why the material or information is necessary to complete the request;

(f) a description of the health insurance issuer's internal grievance procedures established pursuant to Title 33, chapter 32, part 3, including any time limits applicable to those procedures;

(g) a description of the health insurance issuer's expedited grievance procedures established pursuant to Title 33, chapter 32, part 3, including any time limits applicable to those procedures;

(h) a copy of any internal rule, guideline, protocol, or other similar criteria that the health insurance issuer may have relied on to make the adverse determination. Alternatively, the health insurance issuer may provide a statement that a specific rule, guideline, protocol, or other similar criteria was relied on to make the adverse determination and that a copy of the rule,

guideline, protocol, or other similar criteria will be provided free of charge to the covered person on request.

(i) an explanation of the scientific or clinical judgment for making the adverse determination if the adverse determination is based on a medical necessity or experimental or investigational treatment or similar exclusion or limit. Alternatively, the health insurance issuer may provide a statement that an explanation will be provided to the covered person free of charge on request. The explanation under this subsection (7)(i) must apply the terms of the health plan to the covered person's medical circumstances.

(j) instructions for requesting any of the following that are applicable:

(i) a copy of the rule, guideline, protocol, or other similar criteria relied on in making the adverse determination in accordance with subsection (7)(h); or

(ii) the written statement of the scientific or clinical rationale for the adverse determination in accordance with subsection (7)(i); and

(k) a statement explaining the availability of further assistance from the commissioner's office and the right of the covered person or, if applicable, the covered person's authorized representative to contact the commissioner's office at any time for assistance or, on completion of the health insurance issuer's grievance procedure process as provided under Title 33, chapter 32, part 3, to file a civil suit in a court of competent jurisdiction. The statement must include contact information for the commissioner's office.

(8) A health insurance issuer shall provide the notice required under this section in the manner provided in 33-32-211(9).

(9) (a) A health insurance issuer may provide the notice required under this section orally, in writing, or electronically.

(b) If notice of the adverse determination is provided orally, the health insurance issuer shall provide written or electronic notice of the adverse determination within ~~3 days~~ *3 days* following the oral notification."

Section 5. Section 33-32-215, MCA, is amended to read:

"33-32-215. Emergency services. (1) When conducting a utilization review or making a benefit determination for emergency services, a health insurance issuer that provides benefits for services in an emergency department of a hospital shall follow the provisions of this section.

(2) A health insurance issuer shall cover emergency services that screen and stabilize a covered person:

(a) without the need for prior authorization of the emergency services if a prudent lay person would have reasonably believed that an emergency medical condition existed even if the emergency services are provided on an out-of-network basis;

(b) without regard to whether the health care provider furnishing the services is a participating provider with respect to the emergency services;

(c) if the emergency services are provided out-of-network, without imposing any administrative requirement or limitation on coverage that is more restrictive than the requirements or limitations that apply to emergency services received from network providers;

(d) if the emergency services are provided out-of-network, by complying with the cost-sharing requirements in subsection (4); and

(e) without regard to any other term or condition of coverage, other than:

(i) the exclusion of or coordination of benefits;

(ii) an affiliation or waiting period as permitted under 42 U.S.C. 300gg-19a;

or

(iii) cost-sharing, as provided in subsection (4)(a) or (4)(b), as applicable.

(3) For in-network emergency services, coverage of emergency services is subject to applicable copayments, coinsurance, and deductibles.

(4) (a) Except as provided in subsection (4)(b), for out-of-network emergency services, any cost-sharing requirement imposed with respect to a covered person may not exceed the cost-sharing requirement for a covered person if the services were provided in-network.

(b) A covered person may be required to pay, in addition to the in-network cost-sharing expenses, the excess amount the out-of-network provider charges that exceeds the amount the health insurance issuer is required to pay under this subsection (4).

(c) A health insurance issuer complies with the requirements of this section by paying for emergency services provided by an out-of-network provider in an amount not less than the greatest of the following and taking into account exceptions in subsections (4)(d) and (4)(e):

(i) the amount negotiated with in-network providers for emergency services, excluding any in-network cost-sharing imposed with respect to the covered person;

(ii) the amount of the emergency service calculated using the same method the plan uses to determine payments for out-of-network services but using the in-network cost-sharing provisions instead of the out-of-network cost-sharing provisions; or

(iii) the amount that would be paid under medicare for the emergency services, excluding any in-network cost-sharing requirements.

(d) For capitated or other health plans that do not have a negotiated charge for each service for in-network providers, subsection (4)(c)(i) does not apply.

(e) If a health plan has more than one negotiated amount for in-network providers for a particular emergency service, the amount in subsection (4)(c)(i) is the median of those negotiated amounts.

(5) Only in-network cost-sharing amounts may be imposed on out-of-network emergency services.

(6) *A health insurance issuer shall allow a covered person, the person's authorized representative, and the person's health care provider at least 24 hours following an emergency admission or the provision of emergency services to notify the health insurance issuer of the admission or provision of emergency services. If the admission or the emergency services occur on a holiday or weekend, a health insurance issuer shall allow notification no later than by the next business day following the admission or provision of emergency services.*

~~(6)~~(7) If prior authorization is required for a postevaluation or poststabilization services review, a health insurance issuer shall provide access to a designated representative 24 hours a day, 7 days a week, to facilitate the review.

(8) *A health insurance issuer may not impose prior authorization or step therapy requirements for an oral therapy prescription used to treat opioid use disorder."*

Section 6. Disclosure of utilization review requirements -- drug benefit information. (1) A utilization review organization shall make its current utilization review plan prepared pursuant to 33-32-103, including clinical review criteria, standards, procedures, requirements, and restrictions, readily accessible on its website to covered persons, prospective covered persons, and health care providers. The utilization review plan must be described in detail and in easily understandable language.

(2) If a utilization review organization intends to implement a new or amended utilization review plan, including any new or amended clinical review criteria, standards, procedures, requirements, or restrictions, the entity may not implement the change until it has:

(a) notified health care providers in writing of the new or amended utilization review plan, including any new or amended clinical review criteria, standards, procedures, requirements, or restrictions, no less than 60 days before the new or amended plan is to be implemented; and

(b) updated its website to reflect the new or amended utilization review plan, including any new or amended clinical review criteria, standards, procedures, requirements, or restrictions, to make the information accessible to covered persons, prospective covered persons, and health care providers.

(3) A health insurance issuer or utilization review organization, as applicable, shall display on its public website current prescription drug benefit information, including formulary lists of each prescription drug covered under the health insurance issuer's plan.

Section 7. Length of prior authorization. A certification by a utilization review organization approving health care services is valid for at least 3 months from the date the health care provider receives the certification unless the covered person loses coverage under the applicable health plan or health insurance coverage.

Section 8. Codification instruction. [Sections 6 and 7] are intended to be codified as an integral part of Title 33, chapter 32, part 1, and the provisions of Title 33, chapter 32, part 1, apply to [sections 6 and 7].

Section 9. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 10. Effective date -- applicability. [This act] is effective January 1, 2020, and applies to plan years beginning on or after January 1, 2020.

Approved May 10, 2019

CHAPTER NO. 471

[HB 558]

AN ACT ELIMINATING THE ECONOMIC DEVELOPMENT ADVISORY COUNCIL; AMENDING SECTION 90-1-116, MCA; AND REPEALING SECTION 2-15-1820, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 90-1-116, MCA, is amended to read:

“90-1-116. State matching funds program for economic development – distribution of proceeds – criteria for grants – local economic development matching funds. (1) As used in this section, the following definitions apply:

(a) “Certified regional development corporation” means a private, nonprofit corporation that has been designated by the department through a competitive process to manage and administer funds and programs for the department on a regional basis.

(b) “Council” means the economic development advisory council established in 2-15-1820.

(c) “Department” means the department of commerce provided for in 2-15-1801.

(d) “Treasure community” means a community that meets and maintains requirements for certification established by the department and administered by the certified regional development corporation.

(2) The department shall create a program to provide state funds to match local economic development funds and to fund up to 12 certified regional development corporations. The provision of state matching funds is contingent upon specific appropriations to the department for that purpose.

(3) An assistance grant to a certified regional development corporation will be made based on rules adopted by the department for the state matching funds program. The rules for distribution of funds must include consideration of:

(a) the size of the geographic area represented by the certified regional development corporation;

(b) the number of communities served by the certified regional development corporation;

(c) the population served by the certified regional development corporation; and

(d) the services offered by the certified regional development corporation.

(4) To be eligible to receive a grant, a certified regional development corporation:

(a) must be designated as the certified regional development corporation by the department;

(b) shall maintain department requirements for certification;

(c) shall match each \$1 of the grant with \$1 raised from public or private sources;

(d) shall administer the treasure community designation and reporting process for the communities and counties in the region;

(e) shall encourage and organize full participation in regional economic development activities, meetings, projects, and planning by the treasure communities in the region; and

(f) shall deliver services and resources to the citizens, businesses, and treasure communities throughout the region.

(5) Grants under this section must be used to conduct economic development programs consistent with strategic plans that are adopted by the certified regional development corporations and the treasure communities in the region and that are filed with the department."

Section 2. Repealer. The following section of the Montana Code Annotated is repealed:

2-15-1820. Economic development advisory council.

Approved May 10, 2019

CHAPTER NO. 472

[HB 608]

AN ACT AUTHORIZING MANDATORY DECONTAMINATION OF CERTAIN VESSELS WITH BALLAST OR BLADDERS; ALLOWING FEES; ALLOWING CERTIFICATION OF PRIVATE ENTITIES, TRIBES, AND CONSERVATION DISTRICTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 80-7-1006 AND 80-7-1015, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Mandatory decontamination for vessels with ballast or bladders – legislative finding – fees. (1) Except as provided in subsection (2) and in recognition that any interior portion of a vessel that may contain or retain water presents a significant risk of transporting and spreading invasive

species, the legislature finds that as part of quarantine measures implemented in the statewide invasive species management area established pursuant to 80-7-1015, a vessel with ballast or bladders must be decontaminated upon entering the state or crossing the continental divide into the Columbia River basin if the vessel is to be launched on waters of this state.

(2) Decontamination of a vessel with ballast or bladders is not required when the operator is able to provide proof that the vessel has not been launched in any water body for the preceding 30 days. The department of fish, wildlife, and parks shall establish, in writing, the standards for proof.

(3) Decontamination shall be performed in accordance with rules adopted pursuant to 80-7-1007.

(4) The department of fish, wildlife, and parks may certify private entities, tribes, and conservation districts to conduct decontamination pursuant to this section. If it does so, the department shall establish certification procedures, including a decontamination training course and requirements for maintaining certification.

(5) A fee of \$50 may be charged per vessel decontaminated by the department pursuant to this section. A private entity, tribe, or conservation district certified to decontaminate a vessel with ballast or bladders may charge a fee commensurate with the actual cost of the decontamination.

(6) A vessel with ballast or bladders that cannot be fully decontaminated must be locked to its trailer to prevent launch for a drying period determined by the department of fish, wildlife, and parks. The vessel may not be unlocked and allowed to launch until the drying time is complete. No one other than authorized department staff may remove the lock during the drying time. If a vessel requires a drying period, then the vessel must pass an inspection prior to launching in Montana waters in order to be considered decontaminated.

(7) A person in possession of a vessel with ballast or bladders shall carry proof of compliance with this section and provide it for inspection upon request of a department or its designee.

Section 2. Section 80-7-1006, MCA, is amended to read:

“80-7-1006. Departmental responsibilities – reporting. (1) The departments shall prepare a list of invasive species and identify those departments and other public agencies with jurisdiction over each species on the list. The jurisdiction of each department for the prevention and control of invasive species is according to the department’s powers and duties as established by law.

(2) For those invasive species under the jurisdiction of more than one department, the departments with jurisdiction, through cooperative agreement, shall seek to clarify and coordinate their respective responsibilities.

(3) Working in collaboration with each other, the departments, individually or collectively, shall develop and adopt an invasive species strategic plan or plans to accomplish the purposes of this part. The plan or plans shall identify and prioritize threats and determine appropriate actions, in the following order of priority, related to:

(a) public awareness and education;

(b) prevention and detection of invasive species, including the use of invasive species management areas authorized under 80-7-1008 and the statewide invasive species management area established in 80-7-1015;

(c) management, control, and restoration of infested areas; and

(d) emergency response.

(4) The departments shall enforce quarantine regulations and measures imposed by law or rule in an invasive species management area established under 80-7-1008 and in the statewide invasive species management

area established in 80-7-1015, including the mandatory inspection *or decontamination* of any interior portion of a vessel or equipment that may contain water for the presence of an invasive species.

(5) The departments may designate employees to carry out the provisions of this part.

(6) The department of fish, wildlife, and parks shall authorize a request by another entity to operate a check station pursuant to this part if the entity agrees to the conditions of an agreement established by all parties, any cooperative funding requirements, and rules adopted under this part. The department of fish, wildlife, and parks retains oversight authority over the operation of a check station pursuant to this subsection.

(7) The departments shall implement education and outreach programs that increase public knowledge and understanding of prevention, early detection, and control of invasive species.

(8) (a) The departments shall report to the environmental quality council at least biannually regarding activities undertaken and expenses incurred in the implementation of this part.

(b) The department of fish, wildlife, and parks shall report to the legislative finance committee at least biannually on expenditures made in the implementation of this part."

Section 3. Section 80-7-1015, MCA, is amended to read:

"80-7-1015. Statewide invasive species management area. (1) There is established a statewide invasive species management area for the purpose of preventing the introduction, importation, and infestation of invasive species through the mandatory inspection of vessels and equipment entering the state and, *except as provided in [section 1]*, the mandatory decontamination of any vessel or equipment on or in which an invasive species is detected.

(2) To the greatest extent possible, the department of transportation shall cooperate with the department of fish, wildlife, and parks to utilize ports of entry or adjacent department of transportation facilities as locations for check stations established pursuant to this section.

(3) As far as practical, signs indicating that the statewide invasive species management area is in place must be posted in an effective manner along the boundaries of and within the state. The signs must include information about the specific regulations that apply to the area. The signs must be paid for with funds from the invasive species account established in 80-7-1004. The departments may coordinate with any other governmental entity for the posting of signs.

(4) At a check station established pursuant to this section, the departments may examine vessels and equipment for the presence of an invasive species and compliance with this section and rules adopted pursuant to 80-7-1007. ~~Examination~~ *Except as provided in [section 1]*, examination of any interior portion of a vessel or equipment that may contain water, including bilges, livewells, and bait containers, for compliance may occur only if inspection of interior portions is included as part of quarantine measures established pursuant to rules adopted under 80-7-1007.

(5) The owner, operator, or person in possession of a vessel or equipment shall:

(a) comply with this section and rules imposed under 80-7-1007; and

(b) stop at any check station established pursuant to this section unless a medical emergency makes stopping likely to result in death or serious bodily injury.

(6) ~~If~~ *Except as provided in [section 1]*, if during an inspection of a vessel or equipment the presence of an invasive species is detected, that vessel or

equipment may not leave the check station without authorization until it is cleaned and decontaminated in a manner established in accordance with rules adopted pursuant to 80-7-1007. Every effort must be made to ensure decontamination of the vessel or equipment as expeditiously as possible.

(7) After use in a body of water within the statewide invasive species management area, all vessels, equipment, bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary systems, must be drained in a way that does not impact any state waters before being transported on land or on a public highway, as defined in 61-1-101, except when allowed by the department of fish, wildlife, and parks.”

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 80, chapter 7, part 10, and the provisions of Title 80, chapter 7, part 10, apply to [section 1].

Section 5. Effective date. [This act] is effective on passage and approval.

Approved May 10, 2019

CHAPTER NO. 473

[HB 613]

AN ACT PROVIDING FOR A LIMITED ALL-BEVERAGES LICENSE FOR CONTINUING CARE RETIREMENT COMMUNITIES; SETTING REQUIREMENTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 16-4-201 AND 16-4-501, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Limited all-beverages license for continuing care retirement communities – requirements – rulemaking – definitions.

(1) A continuing care retirement community may apply to the department for a limited, nontransferable all-beverages license that is exempt from the quota under 16-4-201 if the following conditions are met:

(a) the applicant meets the requirements of 16-4-401, complies with 16-4-207 and 16-4-402, and pays an application fee of \$500, which constitutes the first annual license fee. If an application is denied, the department shall refund 75% of the application fee. Annual license renewal fees are as provided in 16-4-501.

(b) the continuing care retirement community has a central dining area at which the alcoholic beverages may be served or purchased for on-premises consumption;

(c) the serving hours for alcoholic beverages are within the hours of 11 a.m. to 8 p.m.;

(d) those serving the alcoholic beverages must be 18 years of age or older and have completed the responsible server and sales training program as provided in 16-4-1005; and

(e) those purchasing the alcoholic beverages must be residents of the continuing care retirement community or guests of a resident of the continuing care retirement community.

(2) The limited all-beverages license for a continuing care retirement community does not authorize gaming or gambling under Title 23, chapter 5, parts 3, 5, or 6, but may allow live bingo or keno if the continuing care retirement community is authorized under 23-5-405 for live bingo and keno and complies with Title 23, chapter 5, part 4.

(3) The limited all-beverage license does not allow sale of an alcoholic beverage for off-premises consumption, is subject to 16-3-241, and does not entitle the licensee to a catering endorsement under 16-4-204.

(4) This section does not ban from the continuing care retirement community's residential areas the residents' possession of alcoholic beverages otherwise obtained.

(5) The department may make rules to implement this section as necessary to recognize the combination of individual residences and communal areas that a continuing care retirement community represents.

(6) For the purposes of this section, the following definitions apply:

(a) "Continuing care retirement community" means a residential facility on one campus under the same operator that:

(i) is administered under professional licensure by the department of public health and human services; and

(ii) provides to individuals 55 years of age or older an independent living option and a graduated level of care. The graduated level of care may include an assisted living facility as defined in 50-5-101.

(b) "Guest" means an individual who is either the nonresident spouse of a resident of the continuing care retirement community or an individual invited by a resident.

(c) "On-premises" means within the confines of the continuing care retirement community campus.

Section 2. Section 16-4-201, MCA, is amended to read:

"16-4-201. All-beverages license quota. (1) Except as otherwise provided by law, a license to sell liquor, beer, and table wine at retail, an all-beverages license, in accordance with the provisions of this code and the rules of the department, may be issued to any person who is approved by the department as a fit and proper person to sell alcoholic beverages, except that the number of all-beverages licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within a distance of 5 miles from the corporate limits of those cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows:

(a) in incorporated towns of 500 inhabitants or less and within a distance of 5 miles from the corporate limits of the towns, not more than two retail licenses;

(b) in incorporated cities or incorporated towns of more than 500 inhabitants and not ~~over~~ *more than* 3,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities and towns, three retail licenses for the first 1,000 inhabitants and one retail license for each additional 1,000 inhabitants;

(c) in incorporated cities of ~~over~~ *more than* 3,000 inhabitants and within a distance of 5 miles from the corporate limits of the cities, five retail licenses for the first 3,000 inhabitants and one retail license for each additional 1,500 inhabitants.

(2) The number of inhabitants in each incorporated city or incorporated town, exclusive of the number of inhabitants residing within a distance of 5 miles from the corporate limits of the city or town, governs the number of retail licenses that may be issued for use within the city or town and within a distance of 5 miles from the corporate limits of the city or town. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town.

(3) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town,

the quota area for each city or town terminates in a straight line equidistant between each city or town.

(4) For a period of 12 years after November 24, 2017, existing licenses as of November 24, 2017, in either of two quota areas that were established as provided in subsection (3) may be transferred between the two quota areas if they were part of a combined quota area prior to November 24, 2017.

(5) If any new retail all-beverages licenses are allowed by separating a combined quota area that existed as of November 24, 2017, as provided in subsection (3), the department shall publish the availability of no more than one new retail all-beverages license a year until the quota has been reached.

(6) Retail all-beverages licenses of issue on March 7, 1947, and all-beverages licenses issued under 16-4-209 that are in excess of the limitations in subsections (1) and (2) are renewable, but new licenses may not be issued in violation of the limitations.

(7) The limitations in subsections (1) and (2) do not prevent the issuance of a nontransferable and nonassignable, as to ownership only, retail license to:

(a) an enlisted personnel, noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985; ~~or to;~~

(b) any post of a nationally chartered veterans' organization or any lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in existence for a period of 5 years or more prior to January 1, 1949; or

(c) *a continuing care retirement community as provided in [section 1].*

(8) The number of retail all-beverages licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of 5 miles from the corporate limits of a city or town may not be more than one license for each 750 in population of the county after excluding the population of incorporated cities and incorporated towns in the county.

(9) An all-beverages license issued under subsection (8) that becomes located within 5 miles of an incorporated city or town because of annexation after April 15, 2005, may not be transferred to another location within the city quota area for 5 years from the date of annexation.

(10) The department may adopt rules to implement this section."

Section 3. Section 16-4-501, MCA, is amended to read:

"16-4-501. License and permit fees. (1) Each beer licensee licensed to sell either beer or table wine only or both beer and table wine under the provisions of this code shall pay a license fee. Unless otherwise specified in this section, the fee is an annual fee and is imposed as follows:

(a) (i) each brewer and each beer importer, wherever located, whose product is sold or offered for sale within the state, \$500;

(ii) for each storage depot, \$400;

(b) (i) each beer wholesaler, \$400; each winery, \$200; each table wine distributor, \$400;

(ii) for each subwarehouse, \$400;

(c) each beer retailer, \$200;

(d) (i) for a license to sell beer at retail for off-premises consumption only, the same as a retail beer license;

(ii) for a license to sell table wine at retail for off-premises consumption only, either alone or in conjunction with beer, \$200;

(e) any unit of a nationally chartered veterans' organization, \$50.

(2) The permit fee under 16-4-301(1) is computed at the following rate:

(a) \$10 a day for each day that beer and table wine are sold at events, activities, or sporting contests, other than those applied for pursuant to 16-4-301(1)(c); and

(b) \$1,000 a season for professional sporting contests or junior hockey contests held under the provisions of 16-4-301(1)(c).

(3) The permit fee under 16-4-301(2) is \$10 for the sale of beer and table wine only or \$20 for the sale of all alcoholic beverages.

(4) Passenger carrier licenses must be issued upon payment by the applicant of an annual license fee in the sum of \$300.

(5) The annual license fee for a license to sell wine on the premises, when issued as an amendment to a beer-only license pursuant to 16-4-105, is \$200.

(6) The annual renewal fee for:

(a) a brewer producing 10,000 or fewer barrels of beer, as defined in 16-1-406, is \$200; ~~and~~

(b) resort retail all-beverages licenses within a given resort area is \$2,000 for each license; *and*

(c) *a continuing care retirement community limited all-beverages license is \$500 for each license.*

(7) Except as provided in this section, each licensee licensed under the quotas of 16-4-201 shall pay an annual license fee as follows:

(a) for each license outside of incorporated cities and incorporated towns or in incorporated cities and incorporated towns with a population of less than 2,000, \$250 for a unit of a nationally chartered veterans' organization and \$400 for all other licensees;

(b) for each license in incorporated cities with a population of more than 2,000 and less than 5,000 or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, \$350 for a unit of a nationally chartered veterans' organization and \$500 for all other licensees;

(c) for each license in incorporated cities with a population of more than 5,000 and less than 10,000 or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, \$500 for a unit of a nationally chartered veterans' organization and \$650 for all other licensees;

(d) for each license in incorporated cities with a population of 10,000 or more or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, \$650 for a unit of a nationally chartered veterans' organization and \$800 for all other licensees;

(e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city or town; and where the premises of the applicant to be licensed are situated within 5 miles of the corporate boundaries of two or more incorporated cities or incorporated towns of different populations, the license fee chargeable by the larger incorporated city or incorporated town applies and must be paid by the applicant. When the premises of the applicant to be licensed are situated within an incorporated town or incorporated city and any portion of the incorporated town or incorporated city is without a 5-mile limit, the license fee chargeable by the smaller incorporated town or incorporated city applies and must be paid by the applicant.

(f) an applicant for the issuance of an original license to be located in areas described in subsections (6) and (7)(d) shall provide an irrevocable letter of credit from a financial institution that guarantees that applicant's ability to pay a \$20,000 license fee. A successful applicant shall pay a one-time original license fee of \$20,000 for a license issued. The one-time license fee of \$20,000

may not apply to any transfer or renewal of a license issued prior to July 1, 1974. However, all licenses are subject to the specified annual renewal fees.

(8) The fee for one all-beverages license to a public airport is \$800. This license is nontransferable.

(9) The annual fee for a retail beer and wine license to the Yellowstone airport is \$400.

(10) The annual fee for a special beer and table wine license for a nonprofit arts organization under 16-4-303 is \$250.

(11) The annual fee for a distillery is \$600.

(12) The license fees provided in this section are exclusive of and in addition to other license fees chargeable in Montana for the sale of alcoholic beverages.

(13) In addition to other license fees, the department of revenue may require a licensee to pay a late fee of 33 1/3% of any license fee delinquent on July 1 of the renewal year or 1 year after the licensee's anniversary date, 66 2/3% of any license fee delinquent on August 1 of the renewal year or 1 year and 1 month after the licensee's anniversary date, and 100% of any license fee delinquent on September 1 of the renewal year or 1 year and 2 months after the licensee's anniversary date.

(14) All license and permit fees collected under this section must be deposited as provided in 16-2-108."

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 16, chapter 4, part 3, and the provisions of Title 16, chapter 4, part 3, apply to [section 1].

Section 5. Effective date. [This act] is effective July 1, 2019.

Approved May 10, 2019

CHAPTER NO. 474

[HB 632]

AN ACT REQUIRING A DECENNIAL REPORT ON THE ECONOMIC CONTRIBUTIONS AND IMPACTS OF INDIAN RESERVATIONS TO MONTANA; PROVIDING AN APPROPRIATION; AMENDING SECTION 90-1-105, MCA; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 90-1-105, MCA, is amended to read:

"90-1-105. Functions of department of commerce -- economic development. The department of commerce shall:

(1) provide coordinating services to aid state and local groups and Indian tribal governments in the promotion of new economic enterprises and conduct publicity and promotional activities in connection with new economic enterprises;

(2) collect and disseminate information regarding the advantages of developing agricultural, recreational, commercial, and industrial enterprises within this state;

(3) serve as an official state liaison between persons interested in locating new economic enterprises in Montana and state and local groups and Indian tribal governments seeking new enterprises;

(4) aid communities and Indian tribal governments interested in obtaining new business or expanding existing business;

(5) (a) study and promote means of expanding markets for Montana products; and

(b) provide training and assistance for Montana small businesses and entrepreneurs to expand markets for made-in-Montana products;

(6) encourage and coordinate public and private agencies or bodies in publicizing the facilities and attractions of the state;

(7) *starting in 2020, publish a decennial report, to be authored by the bureau of business and economic research at the University of Montana, on the economic contributions and impacts of Indian reservations in Montana based on federal, state, local, tribal, and private inputs. Copies of the report must be provided to the governor, each tribal government in Montana, the state-tribal economic development commission, and the state-tribal relations committee, and the report must be published on the department's website.*

(7)(8) explore the use of cooperative agreements, as provided in Title 18, chapter 11, part 1, for the promotion and enhancement of economic opportunities on the ~~state's~~ Indian reservations *in Montana*; and

(8)(9) assist the state-tribal economic development commission established in 90-1-131 in:

(a) identifying federal government and private sector funding sources for economic development on Indian reservations in Montana; and

(b) fostering and providing assistance to prepare, develop, and implement cooperative agreements, in accordance with Title 18, chapter 11, part 1, with each of the tribal governments in Montana.”

Section 2. Appropriation. There is appropriated \$48,000 from the general fund to the department of commerce for the biennium beginning July 1, 2019, for the contracting of services to develop and publish a decennial report on the economic contributions of Indian reservations to Montana pursuant to 90-1-105.

Section 3. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 4. Effective date. [This act] is effective July 1, 2019.

Approved May 10, 2019

CHAPTER NO. 475

[HB 643]

AN ACT REVISING SCHOOL FUNDING LAWS RELATED TO STATE LANDS REIMBURSEMENT BLOCK GRANTS; EXTENDING THE SUNSET ON THE BLOCK GRANTS; PROVIDING AN APPROPRIATION; AMENDING SECTION 20, CHAPTER 416, LAWS OF 2017; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-9-640, MCA, is amended to read:

“20-9-640. (Temporary) State lands reimbursement block grant.

(1) (a) ~~For each fiscal year of the biennium beginning July 1, 2017~~ *fiscal years 2018, 2019, 2020, and 2021*, the office of public instruction shall provide a state lands reimbursement block grant of \$100,000 to each school district in a county with greater than 20% of the county's land area composed of state school trust lands.

(b) The electronic reporting system that is used by the office of public instruction and school districts must be used to allocate the block grant amount into each district's general fund *BASE* budget as an anticipated revenue source.

(2) Each year, 70% of each district's block grant must be distributed in ~~November~~ *December* and 30% of each district's block grant must be distributed in May at the same time that guaranteed tax base aid is distributed. (Terminates June 30, 2019 ~~2021--sec. 20, Ch. 416, L. 2017.~~)"

Section 2. Section 20, Chapter 416, Laws of 2017, is amended to read:

"Section 20. Termination. [Section 4] terminates June 30, 2019 ~~2021.~~"

Section 3. Appropriation. There is appropriated \$100,000 from the general fund to the office of public instruction in each fiscal year of the biennium beginning July 1, 2019, for the purpose of distributing state lands reimbursement block grants pursuant to 20-9-640.

Section 4. Effective dates. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 3] is effective July 1, 2019.

Approved May 10, 2019

CHAPTER NO. 476

[HB 652]

AN ACT PROVIDING FUNDING AND AUTHORIZATION FOR CAPITAL AND INFRASTRUCTURE PROJECTS STATEWIDE; PROVIDING FUNDING AND AUTHORIZATION FOR SCHOOL FACILITY PROJECTS STATEWIDE; CREATING THE DELIVERING LOCAL ASSISTANCE GRANT PROGRAM; PROVIDING RULEMAKING AUTHORITY; CREATING THE DELIVERING LOCAL ASSISTANCE ACCOUNT FOR GRANTS AND THE LOCAL INFRASTRUCTURE ACCOUNT; APPROPRIATING MONEY TO AGENCIES FOR CAPITAL PROJECTS; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR GRANTS UNDER THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; APPROPRIATING MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR GRANTS UNDER THE RECLAMATION AND DEVELOPMENT GRANTS PROGRAM; APPROPRIATING MONEY TO THE DEPARTMENT OF COMMERCE FOR FINANCIAL ASSISTANCE TO LOCAL GOVERNMENT INFRASTRUCTURE PROJECTS; AUTHORIZING PROJECT GRANT AMOUNTS; PLACING CONDITIONS UPON GRANTS AND FUNDS; AUTHORIZING THE CREATION OF STATE DEBT THROUGH THE ISSUANCE OF GENERAL OBLIGATION BONDS; TRANSFERRING FUNDS; AMENDING SECTION 90-6-701, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Definitions. For the purposes of [sections 1 through 12], unless otherwise provided, the following definitions apply:

(1) "Capital project" means improvements or the planning, capital construction, environmental cleanup, renovation, or major repair projects authorized in [sections 9 through 12].

(2) "CPA" means the capital projects account provided for in 17-5-803 and 17-5-804.

(3) "Infrastructure projects" means:

- (a) drinking water systems;
- (b) wastewater treatment;

- (c) sanitary sewer or storm sewer systems;
 - (d) solid waste disposal and separation systems, including site acquisition, preparation, and monitoring;
 - (e) bridges;
 - (f) facilities for government administration;
 - (g) public safety infrastructure related to law enforcement, fire protection, or emergency services; or
 - (h) school district infrastructure projects. A school district infrastructure project means a project:
 - (i) that is related to life safety or security issues;
 - (ii) for major repairs or deferred maintenance to an existing school facility;
- or
- (iii) for major improvements or enhancements to an existing school facility.
- (4) “Local government” means an incorporated city or town, a county, a consolidated local government, a tribal government, a school district, a county or multicounty water, sewer, irrigation, or solid waste district, or an authority as defined in 75-6-304.

Section 2. Local infrastructure accounts – use. (1) There is within the state special revenue fund provided for in 17-2-102 an account called the delivering local assistance account for grants to provide grant funding to local governments for local infrastructure projects. The department of commerce shall administer the account.

(2) There is within the state special revenue fund provided for in 17-2-102 an account called the local infrastructure account to provide grants as authorized in [sections 14, 19, and 20]. The department of commerce shall administer the account.

Section 3. Delivering local assistance grant program created – authorization for local infrastructure project grants. (1) The department of commerce is authorized to make up to \$21.5 million in grants to local governments impacted by natural resource development for infrastructure projects. The grants authorized in this section are subject to the conditions set forth in [section 5].

(2) Of the grants authorized in subsection (1), \$10.75 million must be distributed to local governments for local infrastructure projects as defined in [section 1(3)(a) through (3)(g)].

(3) Of the grants authorized in subsection (1), \$10.75 million must be distributed to local governments for school district infrastructure projects as defined in [section 1(3)(h)]. The department shall prioritize school district infrastructure projects in the following priority order:

(a) projects that solve urgent and serious public health or safety or security problems or that enable public school districts to meet state or federal health or safety standards; and

(b) projects that provide improvements necessary to bring school facilities up to current local, state, and federal codes and standards.

(4) Except as provided in subsection (3), beginning June 1, 2019, the department of commerce shall receive proposals from local governments for infrastructure projects.

(5) Funding for projects may be provided only as long as there are sufficient funds available from the amount that was deposited or transferred into the delivering local assistance account for grants established in [section 2(1)]. Funding for these projects must be made available in the order that the grant recipients satisfy the conditions described in [section 5(1)].

(6) If a grant recipient does not complete all of the conditions described in [section 5(1)] by September 30, 2020, any obligation to the grant recipient is extinguished.

Section 4. Eligibility – submission deadline – priority – rulemaking authority. (1) A local government may apply to the department of commerce for local infrastructure grants under [section 3].

(2) For a project that was submitted for approval to the 66th legislature for funding from the treasure state endowment program but did not receive legislative approval for funding from the program, the amount of a grant for the project under [this act] may not exceed the amount of funding recommended for the project as described in the treasure state endowment program 2021 biennium report to the 66th legislature.

(3) All local governments shall submit grant requests and materials to the department by September 30, 2019, in order to be eligible for funding under [section 3].

(4) The department is authorized to adopt rules or guidelines necessary to implement [this act].

Section 5. Condition of grants – disbursement of funds. (1) The disbursement of grant funds for the projects chosen by the department of commerce pursuant to [section 3] is subject to completion of the following conditions:

(a) The grant recipient shall document that other funds required for completion of the project are firmly committed.

(b) The grant recipient must have a project management plan that is approved by the department.

(c) The grant recipient must be in compliance with the auditing and reporting requirements provided in 2-7-503 and have established a financial accounting system that the department can reasonably ensure conforms to generally accepted accounting principles. Tribal governments shall comply with auditing and reporting requirements provided for in 2 CFR part 200.

(d) The grant recipient shall execute a grant agreement with the department of commerce.

(e) The grant recipient shall satisfactorily comply with any conditions described in the application (project) summaries section of the treasure state endowment program 2021 biennium report to the 66th legislature.

(f) The grant recipient shall satisfy other specific requirements considered necessary by the department of commerce to accomplish the purpose of the project as evidenced by the application to the department.

(2) With the exception of bridges and facilities defined in [section 1(3)(f) through (3)(h)], all projects must adhere to the design standards required by the department of environmental quality. Recipients of grants under [section 3] that are not subject to the department of environmental quality design standards shall adhere to generally accepted industry standards such as Recommended Standards for Wastewater Facilities or Recommended Standards for Water Works, published by the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, latest edition.

(3) Facility projects as defined in [section 1(3)(f) through (3)(h)] must adhere to the design standards required by applicable regulatory agencies. Recipients of program funds for projects that are not subject to any design standards must comply with generally accepted industry standards.

(4) When applicable, recipients of grants under [section 3] are subject to the requirements of the department of commerce as described in the most recent edition of the Treasure State Endowment Program Project Administration Manual adopted by the department by administrative rule.

Section 6. Disbursement of funds. (1) The department of commerce shall disburse grant funds on a reimbursement basis as grant recipients incur eligible project expenses.

(2) If actual project expenses are lower than the projected expense of the project, the department must reduce the amount of grant funds to be provided to grant recipients.

Section 7. Maximum state funding available for infrastructure – per project – per county. The maximum amount of state funding under [sections 3 through 7] may not exceed \$750,000 per project, and the maximum amount of grant funding under [sections 3 through 7] that may be received in a single county may not exceed \$1.5 million.

Section 8. Appropriations of grants. There is appropriated to the department of commerce \$14 million for the biennium beginning July 1, 2019, from the delivering local assistance account for grants as authorized in [sections 3 through 7].

Section 9. Authorization of and appropriations for capital projects. (1) Upon passage and approval of [this act], the following projects, pursuant to 18-2-102, are authorized and approved and funds are appropriated to the department of administration from the indicated funding sources. Funds not requiring legislative appropriation are included for the purposes of authorization only:

DEPARTMENT OF ADMINISTRATION

Life Safety and Deferred Maintenance,

Statewide \$3 million (CPA)

Life Safety and Deferred Maintenance,

Capitol Complex \$2 million (CPA)

MONTANA UNIVERSITY SYSTEM

Romney Hall - MSU Bozeman \$16 million (CPA) \$7 million
(Authority only)

\$9 million (Long-Range Building Program Account)

MAES Research Labs \$2 million (CPA)

New Dental Clinic, Assisting and Hygiene Lab -

MSUGF \$4.25 million (CPA)

DEPARTMENT OF MILITARY AFFAIRS

Butte-Silver Bow County Armory 5 million (CPA) \$17 million
(Federal Special Revenue)

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

Montana State Hospital - Sewer Replacement \$4.5 million (CPA)

(2) \$1.3 million is appropriated from the CPA to the department of fish, wildlife, and parks for the Makoshika State Park Waterline.

(3) \$750,000 is appropriated from the CPA to the department of commerce to the credit of the Montana heritage preservation and development commission for restoration and maintenance of historic properties in Virginia City and Nevada City.

(4) \$750,000 is appropriated from the CPA to the department of corrections to provide a grant to the Dawson County regional prison for roof repairs, HVAC improvements, and electronic improvements in the control room. The facility shall report on the use of the grant to the department of corrections.

Section 10. Planning and design. The department of administration may proceed with the planning and design of capital projects prior to the receipt of other funding sources. The department may use interentity loans in accordance with 17-2-107 to pay planning and design costs incurred before the receipt of funding from another funding source.

Section 11. Capital projects – contingent funds – legislative consent. (1) Except as provided in subsection (2), if a capital project is financed in part with appropriations contingent on the receipt of funding from another funding source, the department of administration may not let the project go to bid until the agency receiving funding has submitted a financial plan for approval by the director of the department of administration.

(2) A financial plan may not be approved by the director if:

(a) the level of funding provided under the financial plan deviates substantially from the funding level provided in [section 9] for that project; or

(b) the scope of the project is substantially altered or revised from the preliminary plans presented for that project in the 2021 biennium long-range building program and as presented to the 66th legislature.

(3) The appropriations authorized in [section 9] constitute legislative consent for the capital projects contained in [section 9] within the meaning of 18-2-102.

Section 12. Review by department of environmental quality. The department of environmental quality shall review capital projects authorized in [section 9] for potential inclusion in the state building energy conservation program under Title 90, chapter 4, part 6. When a review shows that a capital project will result in energy improvements, the project must be submitted to the energy conservation program for funding consideration. Funding provided under the energy conservation program guidelines must be used to offset or add to the authorized funding for the project, with the amount dependent on the annual utility savings resulting from the facility improvement. Agencies must be notified of potential funding after the review.

Section 13. Authorization of bonds – conditions – maturity. (1) The board of examiners is authorized to issue and sell general obligation bonds in one or more series and from time to time for the purposes described in subsection (3) in addition to the amount of general obligation bonds outstanding on January 1, 2019.

(2) The bonds under this section must be issued in accordance with the terms and in the manner required by Title 17, chapter 5, part 8, and the maturity of these bonds must be 10 years. The authority granted to the board of examiners by this section is in addition to any other authorization to the board of examiners to issue and sell general obligation bonds.

(3) On [the effective date of this act], the board of examiners is authorized to issue and sell general obligation bonds and deposit the proceeds as follows:

(a) \$39,550,000 of the proceeds from the bonds sold under this section must be deposited in the capital projects account provided for in 17-5-803 and 17-5-804; and

(b) \$21,500,000 of the proceeds from the bonds sold under this section must be deposited in the delivering local assistance account for grants provided for in [section 2(1)].

(c) \$18,823,553 of the proceeds from the bonds sold under this section must be deposited in the local infrastructure account provided for in [section 2(2)].

Section 14. Appropriation for treasure state endowment program grants. (1) There is appropriated to the department of commerce \$9,645,000 for the biennium beginning July 1, 2019, from the local infrastructure account established in [section 2(2)] to finance treasure state endowment program grants authorized by subsection (2).

(2) The following applicants and projects are authorized for grants and listed in the order of their priority:

Infrastructure Applicant (project type)	Grant Amount
15. Chinook, City of (water)	\$500,000
16. Cut Bank, City of (water)	\$750,000
17. Roundup, City of (water)	\$750,000
18. Darby, Town of (wastewater)	\$500,000
19. Scobey, City of (water)	\$500,000
20. Circle, Town of (water)	\$500,000
21. Seeley Lake Sewer District (wastewater)	\$750,000
22. Polson, City of (wastewater)	\$750,000
23. Black Eagle-Cascade County Water & Sewer District (water & wastewater)	\$645,000
24. Hardin, City of (wastewater)	\$625,000
25. Harlowton, City of (wastewater)	\$625,000
26. Dillon, City of (water)	\$500,000
27. Bigfork County Water & Sewer District (wastewater)	\$500,000
28. Vaughn Cascade County Water & Sewer District (water)	\$625,000
29. East Helena, City of (water)	\$500,000
30. Whitefish, City of (wastewater)	\$625,000
31. Red Lodge, City of (storm water)	\$500,000
32. Cascade, Town of (water)	\$500,000
33. Plentywood, City of (wastewater)	\$750,000
34. Sun Prairie Village County Water & Sewer District (wastewater)	\$500,000
35. North Havre County Water District (water)	\$430,000
36. Conrad, City of (water)	\$398,779
37. Sun Prairie County Water District (water)	\$275,000
38. Winnett, Town of (wastewater)	\$500,000
39. Baker, City of (water)	\$600,000
40. White Sulphur Springs, City of (water)	\$200,000

(3) Funding for the projects numbered 15 through 40 in subsection (2) will be provided up to the amount of the appropriation in subsection (1) as projects meet the conditions provided in [section 16(1)].

(4) There is appropriated to the department of commerce \$2,956,553 for the biennium beginning July 1, 2019, from the local infrastructure account established in [section 2(2)] to finance treasure state endowment program grants authorized by subsection (5) as projects meet the conditions provided in [section 16(1)].

(5) The following applicants and projects are authorized for grants and listed in the order of their priority:

Bridge Applicant	Grant Amount
5. Madison County	\$591,768
6. Chouteau County	\$279,753
7. Fergus County	\$262,839
8. Sweet Grass County	\$591,976
9. Jefferson County	\$207,903
10. Big Horn County	\$272,314
11. Gallatin County	\$750,000

(6) If sufficient funds are available, this section constitutes a valid obligation of funds to the grant recipients listed in subsections (2) and (5) for purposes of encumbering local infrastructure account funds for the biennium beginning July 1, 2019, pursuant to 17-7-302. However, a grant recipient's entitlement to receive funds is dependent on the grant recipient's compliance with the conditions described in [section 16(1)] and on the availability of funds.

(7) Funding for projects in subsections (2) and (5) will be provided only as long as there are sufficient funds available from the amount that was

deposited into the local infrastructure account. Funding for these projects will be made available in the order that the grant recipients satisfy the conditions described in [section 16(1)]. However, any of the projects listed in subsections (2) and (5) that have not completed the conditions described in [section 16(1)] by September 30, 2020, must be reviewed by the next regular session of the legislature to determine if the authorized grant should be withdrawn.

(8) The funds appropriated in this section must be used by the department to make grants to the governmental entities listed in subsections (2) and (5) for the described purposes and in amounts not to exceed the amounts set out in subsections (2) and (5). The grants authorized in this section are subject to the conditions set forth in [section 16(1)] and described in the treasure state endowment program 2021 biennium report to the 66th legislature. The legislature, pursuant to 90-6-710, authorizes the grants for the projects listed in subsections (2) and (5). The department shall commit funds to projects listed in subsections (2) and (5), up to the amounts authorized, based on the manner of disbursement set forth in [section 16] until the funds deposited into the local infrastructure account during the biennium beginning July 1, 2019, are expended.

(9) Grant recipients shall complete all of the conditions described in [section 16(1)] by September 30, 2022, or any obligation to the grant recipient will cease.

Section 15. Approval of grants – completion of biennial appropriation. (1) The legislature, pursuant to 90-6-701, authorizes grants for the projects identified in [sections 14(2) and 14(5)].

(2) The authorization of these grants completes a biennial appropriation from the local infrastructure account established in [section 2(2)].

Section 16. Condition of grants – disbursements of funds. (1) The disbursement of grant funds for the projects specified in [sections 14(2) and 14(5)] is subject to completion of the following conditions:

(a) The grant recipient shall document that other matching funds required for completion of the project are firmly committed.

(b) The grant recipient must have a project management plan that is approved by the department of commerce.

(c) The grant recipient must be in compliance with the auditing and reporting requirements provided for in 2-7-503 and have established a financial accounting system that the department can reasonably ensure conforms to generally accepted accounting principles. Tribal governments shall comply with auditing and reporting requirements provided for in 2 CFR part 200.

(d) The grant recipient shall satisfactorily comply with any conditions described in the application (project) summaries section of the treasure state endowment program 2021 biennium report to the 66th legislature.

(e) The grant recipient shall satisfy other specific requirements considered necessary by the department of commerce to accomplish the purpose of the project as evidenced by the application to the department.

(f) The grant recipient shall execute a grant agreement with the department of commerce.

(2) With the exception of bridges, all projects must adhere to the design standards required by the department of environmental quality. Recipients of treasure state endowment program funds that are not subject to the department of environmental quality design standards must adhere to generally accepted industry standards, such as Recommended Standards for Wastewater Facilities or Recommended Standards for Water Works, published by the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, latest edition.

(3) Recipients of treasure state endowment program funds are subject to the requirements of the department of commerce as described in the most recent edition of the Treasure State Endowment Program Project Administration Manual adopted by the department through the administrative rulemaking process.

Section 17. Other powers and duties of department. (1) The department of commerce shall disburse grant funds on a reimbursement basis as grant recipients incur eligible project expenses.

(2) If actual project expenses are lower than the projected expense of the project, the department may, at its discretion:

(a) reduce the amount of grant funds to be provided to grant recipients in proportion to all other project funding sources;

(b) authorize the amount of grant funds to be provided so that the grant recipient's projected average residential user rates do not become lower than their target rate as determined by the department; or

(c) reduce the amount of grant funds to be provided so that the grant recipient's projected average residential user rates do not become lower than their target rate as determined by the department.

(3) If the grant recipient obtains a greater amount of grant funds than was contained in the treasure state endowment program application, the department may reduce the amount of the treasure state endowment program grant funds to be provided to ensure that the grant recipient continues to meet the threshold requirements contained in program guidelines for receiving the larger treasure state endowment program grant.

Section 18. Appropriation from treasure state endowment special revenue account for administrative expenses. There is appropriated to the department of commerce \$200,000 for the biennium beginning July 1, 2019, from the treasure state endowment special revenue account for administrative expenses.

Section 19. Appropriations for renewable resource grants.

(1) There is appropriated from the local infrastructure account established in [section 2(2)] to the department of natural resources and conservation up to \$4,975,000 for grants to political subdivisions and local governments on the biennium beginning July 1, 2019. The funds referred to in this subsection must be awarded by the department to the named entities for the described purposes and in the grant amounts listed in subsection (3), subject to the conditions set forth in [sections 21 and 22] and the contingencies described in the renewable resource grant and loan program January 2019 report to the 66th legislature.

(2) Funds must be awarded up to the amounts approved in subsection (3) in the following listed order of priority until available funds are expended. Funds not accepted or used by higher-ranked projects must be provided for projects farther down the priority list that would not otherwise receive funding. If at any time a grant sponsor determines that a project will not begin before June 30, 2021, the sponsor shall notify the department of natural resources and conservation. After all eligible projects are funded, remaining funds may be used for any renewable resource project authorized under this section.

(3) The following are the prioritized grant projects:

RENEWABLE RESOURCE GRANT AND LOAN PROGRAM

Applicant/Project	Amount
Buffalo Rapids Irrigation Project District 1	
(Buffalo Rapids Irrigation Project 1 - Lateral 1.7 Pipeline Conversion)	\$125,000
Hardin, City of	
(Hardin Wastewater Treatment Plant Improvements)	\$125,000

Dillon, City of (Dillon Water Transmission and Distribution Main Replacement)	\$125,000
Helena Valley Irrigation District (Helena Valley Irrigation District Lateral 14.8 Headgate Rehabilitation, Phase 2)	\$125,000
Polson, City of (Polson Wastewater System Improvement, Phase 2)	\$125,000
Carbon County Conservation District (Golden Ditch Company Clark Fork Diversion Rehabilitation)	\$125,000
Savage Irrigation District (Savage Irrigation District Infrastructure Rehabilitation)	\$125,000
Petroleum County Conservation District (Horse Creek Coulee Water Storage)	\$125,000
Wibaux, Town of (Wibaux Wastewater Treatment System Improvements)	\$125,000
Alberton, Town of (Alberton Water System Improvements)	\$125,000
Geraldine, Town of (Geraldine Wastewater System Improvements)	\$125,000
Missoula, City of (Caras Park Outfall Storm Water Treatment Retrofit, Phase 2)	\$125,000
Black Eagle-Cascade County Water & Sewer District (Black Eagle-Cascade County Water & Sewer District Water & Sewer System Improvements)	\$125,000
East Helena, City of (East Helena Water System Improvements)	\$125,000
Plentywood, City of (Plentywood Wastewater Collection Improvement, Phase 2)	\$125,000
Missoula County (Lewis & Clark Subdivision Wastewater Improvements)	\$125,000
Wilsall Water District (Wilsall Water District Water System Improvements)	\$125,000
Lower Yellowstone Irrigation Project (Lower Yellowstone Irrigation Project Crane Wasteway & Pump Station Rehabilitation)	\$125,000
Missoula County Conservation District (Grass Valley French Ditch Clark Fork Diversion Rehabilitation)	\$125,000
Montana Bureau of Mines and Geology (Reducing Mobilization of Oil-Brine Salt to Streams)	\$125,000
Winifred, Town of (Winifred Water System Improvements)	\$125,000
Hysham, Town of (Hysham Wastewater System Rehabilitation, Phase 1)	\$125,000
Vaughn Cascade County Water and Sewer District (Vaughn Cascade County Water and Sewer District Water Improvements)	\$125,000
Stillwater Conservation District (Yanzick/Brey, Riddle Ditch Irrigation System Improvements, Phase 2)	\$125,000
Lockwood Water and Sewer District (Lockwood WSD Drinking Water System Improvements)	\$125,000

Circle, Town of (Circle Water System Improvements)	\$125,000
Yellowstone County DES (Billings Bench Water Users Association Main Canal Rehabilitation, Phase 1)	\$125,000
Hysham Irrigation District (Re-Lift Canal Improvement)	\$125,000
Clyde Park, Town of (Clyde Park Water System Improvements)	\$125,000
Libby, City of (Libby Water System Improvements)	\$125,000
Chinook, City of (Chinook Water System Improvements)	\$125,000
Cut Bank, City of (Cut Bank Water System Improvements)	\$125,000
North Havre County Water District (North Havre County Water District Water System Improvements)	\$125,000
Plains, Town of (Plains Wastewater System Protection)	\$125,000
Montana Bureau of Mines and Geology (Measuring Groundwater Recharge in Flood to Pivot Irrigation Conversions)	\$125,000
Cascade, Town of (Cascade Water System Improvements)	\$125,000
Fallon County (Baker Lake Restoration)	\$100,000
Pondera County Conservation District (Kingsbury Turnout Automation)	\$125,000
Tin Cup County Water and Sewer District (Tin Cup County Water and Sewer District Water Conservation)	\$125,000
Clancy Water and Sewer District (Clancy Water and Sewer District Water Improvements)	\$125,000

Section 20. Appropriations for reclamation and development grants. (1) The amount of \$1,247,000 is appropriated to the department of natural resources and conservation from the local infrastructure account established in [section 2(2)] for grants to political subdivisions and local governments during the biennium ending June 30, 2021. The funds in this subsection must be awarded by the department to the named entities for the described purposes and in the grant amounts set out in subsection (3) subject to the conditions set forth in [sections 21 and 22] and the contingencies described in the reclamation and development grant program January 2019 report to the 66th legislature.

(2) Funds must be awarded up to the amounts approved in this section in the order of priority listed in subsection (3) until available funds are expended. Funds not accepted or used by higher-ranked projects must be provided for projects farther down the priority list that would not otherwise receive funding. After all eligible projects are funded, remaining funds may be used for any reclamation and development project authorized under this section.

(3) The following are the prioritized grant projects:

Applicant/Project	Amount
Montana Department of Environmental Quality (Cottonwood #2 Acid Mine Drainage Diversion Project)	\$300,000

Deer Lodge, City of

(Milwaukee Roundhouse CECRA Site Passenger Refueling
Area VCRA Program Remediation) \$297,000

Montana Department of Environmental Quality

(Basin Creek Mine - Phase 2 Site Stability Project) \$300,000

Ryegate, Town of

(Former Ryegate Conoco Groundwater Remediation) \$50,000

Montana Department of Environmental Quality

(Upper Blackfoot Mining Complex Water Treatment Plant
Bridge and Infrastructure Protection) \$300,000

Section 21. Coordination of fund sources for grants to political subdivisions and local governments. (1) A project sponsor listed under [section 20] may not receive funds from both the reclamation and development grants program and the renewable resource grant and loan program for the same project during the same biennium.

(2) If a project listed in [this act] receives an appropriation in House Bill Nos. 6, 7, or 11 that fully funds the project as proposed in that bill, the project sponsor is not eligible to receive a grant under [this act].

(3) If the amount of funding in the natural resources projects state special revenue account established in 15-38-302 is insufficient to fund appropriation levels authorized in House Bill No. 6, a project in House Bill No. 6 that does not receive funding from the natural resources projects state special revenue account established in 15-38-302 may be funded with the appropriation in [section 19(1)].

(4) If the amount of funding in the natural resources projects state special revenue account established in 15-38-302 is insufficient to fund appropriation levels authorized in House Bill No. 7, a project in House Bill No. 7 that does not receive funding from the natural resources projects state special revenue account established in 15-38-302 may be funded with the appropriation in [section 20(1)].

(5) If the amount of funding in the treasure state endowment special revenue account established in 17-5-703(3)(a), is insufficient to fund appropriation levels authorized in House Bill No. 11, a project in House Bill No. 11 that does not receive funding from the treasure state endowment special revenue account established in 17-5-703(3)(a) may be funded with the appropriation in [section 14(1)].

Section 22. Condition of grants. Disbursement of funds under [sections 19 and 20] is subject to the following conditions that must be met by the project sponsor:

(1) A scope of work and budget for the project must be approved by the department of natural resources and conservation. Any changes in scope of work or budget subsequent to legislative approval may not change project goals and objectives. Changes in activities that would reduce the public or natural resource benefits as presented in department of natural resources and conservation reports and applicant testimony to the 66th legislature may result in a proportional reduction in the grant amount.

(2) The project sponsor shall show satisfactory completion of conditions described in the recommendation section of the project narrative of the program report to the legislature for the biennium ending June 30, 2021, or, in the case of planning grants issued under [sections 19 and 20], completion of conditions specified at the time of written notification of approved grant authority.

(3) The project sponsor must have a fully executed grant agreement with the department.

(4) Any other specific requirements considered necessary by the department must be met to accomplish the purpose of the grant as evidenced from the application to the department or from the proposal as presented to the legislature.

Section 23. Approval of grants – completion of biennial appropriation. The legislature, pursuant to 90-2-1111, approves the reclamation and development grants listed in [section 20]. The legislature, pursuant to 85-1-605, approves the renewable resource program grants listed in [section 19]. The authorization of these grants completes a biennial appropriation from the local infrastructure account established in [section 2(2)].

Section 24. Section 90-6-701, MCA, is amended to read:

“90-6-701. Treasure state endowment program created – definitions.

(1) (a) There is a treasure state endowment program that consists of:

(i) the treasure state endowment fund established in 17-5-703;

(ii) the infrastructure portion of the coal severance tax bond program provided for in 17-5-701(2).

(b) The treasure state endowment program may borrow from the board of investments to provide additional financial assistance for local government infrastructure projects under this part, provided that no part of the loan may be made from retirement funds.

(2) Interest from the treasure state endowment fund and from proceeds of the sale of bonds under 17-5-701(2) may be used to provide financial assistance for local government infrastructure projects under this part, to provide funding to the department of commerce for the administrative costs of the treasure state endowment program *and the delivering local assistance grant program*, and to repay loans from the board of investments.

(3) As used in this part, the following definitions apply:

(a) “Infrastructure projects” means:

(i) drinking water systems;

(ii) wastewater treatment;

(iii) sanitary sewer or storm sewer systems;

(iv) solid waste disposal and separation systems, including site acquisition, preparation, or monitoring; or

(v) bridges.

(b) “Local government” means an incorporated city or town, a county, a consolidated local government, a tribal government, a county or multicounty water, sewer, or solid waste district, or an authority as defined in 75-6-304.

(c) “Treasure state endowment fund” means the coal severance tax infrastructure endowment fund established in 17-5-703(1)(b).

(d) “Treasure state endowment program” means the local government infrastructure investment program established in subsection (1).

(e) “Tribal government” means a federally recognized Indian tribe within the state of Montana.”

Section 25. Transfer of funds. By August 15, 2019, the state treasurer shall transfer \$9 million from the general fund to the long-range building program account established in 17-7-205.

Section 26. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 27. Coordination instruction. If House Bill No. 553 is not passed and approved, [this act] is void.

Section 28. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is

invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 29. Creation of state debt – two-thirds vote required. Because [section 13] authorizes the creation of state debt, Article VIII, section 8, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage.

Section 30. Effective date. [This act] is effective on passage and approval.

Section 31. Termination. [Section 24] terminates June 30, 2021.

Approved May 10, 2019

CHAPTER NO. 477

[HB 676]

AN ACT PROVIDING FOR A STATUTORY APPROPRIATION TO THE DEPARTMENT OF MILITARY AFFAIRS TO PROVIDE GRANTS TO THE MONTANA CIVIL AIR PATROL; REQUIRING THE DEPARTMENT TO REPORT ON GRANTS AND CERTAIN METRICS TO CERTAIN LEGISLATIVE COMMITTEES; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Grants – civil air patrol – reporting requirements.

(1) The department of military affairs shall distribute grants to the Montana civil air patrol on an annual basis to provide training to civil air patrol members.

(2) The amount of \$45,000 is statutorily appropriated on an annual basis, as provided in 17-7-502, from the general fund to the department of military affairs for the purposes outlined in subsection (1).

(3) The department of military affairs shall report to the house appropriations committee at each legislative session and to the state administration and veterans' affairs interim committee during each interim on the distribution of grants and the following metrics:

(a) the extent to which counties are informed of the services provided by the civil air patrol;

(b) the extent to which the civil air patrol is used by counties for search and rescue operations; and

(c) the amount of savings realized by counties who have used the civil air patrol for search and rescue operations.

Section 2. Section 17-7-502, MCA, is amended to read:

“17-7-502. Statutory appropriations – definition – requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; [section 1]; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-35-108;

15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-13-150; 76-13-416; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023, and pursuant to sec. 2, Ch. 340, L. 2017, and sec. 32, Ch. 429, L. 2017, is void for fiscal years 2018 and 2019; and pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027.)"

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 10, and the provisions of Title 10 apply to [section 1].

Section 4. Effective date. [This act] is effective July 1, 2019.

Section 5. Termination. [This act] terminates June 30, 2023.

Approved May 10, 2019

CHAPTER NO. 478

[HB 717]

AN ACT ESTABLISHING THE LOUIS CHARLES CHARLO MEMORIAL HIGHWAY IN MISSOULA COUNTY; DIRECTING THE DEPARTMENT OF TRANSPORTATION TO INSTALL SIGNS AT THE LOCATION AND TO INCLUDE THE MEMORIAL HIGHWAY ON THE NEXT PUBLICATION OF THE STATE HIGHWAY MAP; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Louis Charles Charlo, a U.S. Marine from the Confederated Salish and Kootenai Tribes, served in crucial roles for the raising of the two U.S. flags on Mount Suribachi during the Battle of Iwo Jima; and

WHEREAS, Louis Charles Charlo was born September 26, 1926, the son of Mary and Antoine Charlo; and

WHEREAS, Louis Charles Charlo's great grandfather was Chief Charlo, the head chief of the Bitterroot Salish from 1870 to 1910; and

WHEREAS, the Battle of Iwo Jima was a major battle in which the U.S. Marine Corps landed on and eventually captured the island of Iwo Jima from the Imperial Japanese Army during World War II; and

WHEREAS, Louis Charles Charlo ascended Mount Suribachi with three fellow Marines on the morning of February 23, 1945, to conduct route reconnaissance and determine enemy disposition on the summit prior to the first flag raising; and

WHEREAS, it is traditionally known that Louis Charles Charlo participated in the raising of the first U.S. flag, which came from aboard U.S.S. Missoula, on Mount Suribachi; and

WHEREAS, Louis Charles Charlo provided security on the summit of Mount Suribachi for the raising of the second U.S. flag, immortalized by Associated Press photographer Joseph Rosenthal; and

WHEREAS, Louis Charles Charlo was killed as he was attempting to rescue Private Ed McLaughlin, a wounded soldier stranded in an area of the Iwo Jima battlefield known as the Meat Grinder; and

WHEREAS, Louis Charles Charlo was carrying McLaughlin on his back and both were killed just a few feet from safety; and

WHEREAS, Louis Charles Charlo earned the Presidential Unit Citation Ribbon with one bronze star, the Asiatic-Pacific Campaign Ribbon with one bronze star, the World War II Victory Medal, and the Purple Heart; and

WHEREAS, Senator Mike Mansfield, then a U.S. Representative, traveled to Iwo Jima in 1948 and escorted Louis Charles Charlo's body back to Montana; and

WHEREAS, Louis Charles Charlo is now buried at the Saint Ignatius Old Catholic Cemetery, Lake County, Montana; and

WHEREAS, the 66th Legislature of the State of Montana honors Louis Charles Charlo.

Be it enacted by the Legislature of the State of Montana:

Section 1. Louis Charles Charlo memorial highway. (1) There is established the Louis Charles Charlo memorial highway on the existing U.S. highway 93 north from mile marker 7 to mile marker 9.

(2) The department shall design and install appropriate signs marking the location of the Louis Charles Charlo memorial highway.

(3) Maps that identify roadways in Montana must be updated to include the location of the Louis Charles Charlo memorial highway when the department updates and publishes the state maps.

Section 2. Appropriation. There is appropriated \$1 from the general fund to the department of transportation for the fiscal year ending June 30, 2020, for the purpose of [section 1].

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 60, chapter 1, part 2, and the provisions of Title 60, chapter 1, part 2, apply to [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

Approved May 10, 2019

CHAPTER NO. 479

[HB 727]

AN ACT GENERALLY REVISING ALCOHOLIC BEVERAGE AND GAMBLING LAWS; ALLOWING FOR APPROVAL OF CERTAIN ALCOHOLIC BEVERAGE LICENSES WITHOUT A PREMISES; ALLOWING FOR CONCESSION AGREEMENTS; REQUIRING THAT ALCOHOLIC BEVERAGE APPLICANTS THAT ARE APPROVED WITHOUT A PREMISES HAVE A CERTAIN AMOUNT OF TIME TO GET THE PREMISES APPROVED; ALLOWING FOR LICENSURE OF GAMBLING ESTABLISHMENT OPERATORS WITHOUT A PREMISES; AMENDING SECTIONS 16-1-106, 16-4-207, 16-4-402, 16-4-405, 16-4-420, AND 23-5-177, MCA; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Approval of a licensee without premises. (1) If an applicant has a license available to obtain under 16-4-104, 16-4-201, 16-4-204, or 16-4-420, but does not have a premises, the department may approve the applicant without approving the premises. The department shall issue the license if all other requirements of this code related to an applicant are met.

(2) A license issued under subsection (1) must be immediately put on nonuse until a premises is approved by the department. Upon issuance of the license under this section, the licensee must apply for a premises within 6 months and must have the premises approved within 1 year from issuance of the license. A licensee must pay all licensing fees annually even if the premises has not been approved. The department may establish nonuse license fees for a license issued under this section.

Section 2. Concession agreements. The department may allow entities licensed under 16-4-104 or 16-4-201 to enter into concession agreements with unlicensed entities to serve alcoholic beverages.

Section 3. Section 16-1-106, MCA, is amended to read:

“16-1-106. Definitions. As used in this code, the following definitions apply:

(1) “Agency franchise agreement” means an agreement between the department and a person appointed to sell liquor and table wine as a commission merchant rather than as an employee.

(2) "Agency liquor store" means a store operated under an agency franchise agreement in accordance with this code for the purpose of selling liquor at either the posted or the retail price for off-premises consumption.

(3) "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.

(4) "Alcoholic beverage" means a compound produced and sold for human consumption as a drink that contains more than 0.5% of alcohol by volume.

(5) (a) "Beer" means:

(i) a malt beverage containing not more than 8.75% of alcohol by volume; or

(ii) an alcoholic beverage containing not more than 14% alcohol by volume:

(A) that is made by the alcoholic fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted cereal grain; and

(B) in which the sugars used for fermentation of the alcoholic beverage are at least 75% derived from malted cereal grain measured as a percentage of the total dry weight of the fermentable ingredients.

(b) The term does not include a caffeinated or stimulant-enhanced malt beverage.

(6) "Beer importer" means a person other than a brewer who imports malt beverages.

(7) "Brewer" means a person who produces malt beverages.

(8) "Caffeinated or stimulant-enhanced malt beverage" means:

(a) a beverage:

(i) that is fermented in a manner similar to beer and from which some or all of the fermented alcohol has been removed and replaced with distilled ethyl alcohol;

(ii) that contains at least 0.5% of alcohol by volume;

(iii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of beer as described in 27 CFR 25.55; and

(iv) to which is added caffeine or other stimulants, including but not limited to guarana, ginseng, and taurine; or

(b) a beverage:

(i) that contains at least 0.5% of alcohol by volume;

(ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of beer as described in 27 CFR 25.55;

(iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract;

(iv) to which is added caffeine or other stimulants, including but not limited to guarana, ginseng, and taurine;

(v) for which the producer is required to file a formula for approval with the United States alcohol and tobacco tax and trade bureau pursuant to 27 CFR 25.55; and

(vi) that is not exempt pursuant to 27 CFR 25.55(f).

(9) "Community" means:

(a) in an incorporated city or town, the area within the incorporated city or town boundaries;

(b) in an unincorporated city or area, the area identified by the federal bureau of the census as a community for census purposes; and

(c) in a consolidated local government, the area of the consolidated local government not otherwise incorporated.

(10) "Concessionaire" means an entity that has a concession agreement with a licensed entity.

(10)(11) "Department" means the department of revenue, unless otherwise specified, and includes the department of justice with respect to receiving and processing, but not granting or denying, an application under a contract entered into under 16-1-302.

(11)(12) "Growler" means any refillable, resealable container complying with federal law.

(12)(13) "Hard cider" means an alcoholic beverage that is made from the alcoholic fermentation of the juices of apples or pears and that contains not less than 0.5% of alcohol by volume and not more than 6.9% of alcohol by volume, including but not limited to flavored, sparkling, or carbonated cider.

(13)(14) "Immediate family" means a spouse, dependent children, or dependent parents.

(14)(15) "Import" means to transfer beer or table wine from outside the state of Montana into the state of Montana.

(15)(16) "Liquor" means an alcoholic beverage except beer and table wine. The term includes a caffeinated or stimulant-enhanced malt beverage.

(16)(17) "Malt beverage" means an alcoholic beverage made by the fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or their parts or their products and with or without other malted cereals and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared from carbohydrates and with or without other wholesome products suitable for human food consumption.

(17)(18) "Package" means a container or receptacle used for holding an alcoholic beverage.

(18)(19) "Posted price" means the wholesale price of liquor for sale to persons who hold liquor licenses as fixed and determined by the department and in addition an excise and license tax as provided in this code. In the case of sacramental wine sold in agency liquor stores, the wholesale price may not exceed the sum of the department's cost to acquire the sacramental wine, the department's current freight rate to agency liquor stores, and a 20% markup.

(19)(20) "Proof gallon" means a U.S. gallon of liquor at 60 degrees on the Fahrenheit scale that contains 50% of alcohol by volume.

(20)(21) "Public place" means a place, building, or conveyance to which the public has or may be permitted to have access and any place of public resort.

(21)(22) "Retail price" means the price established by an agent for the sale of liquor to persons who do not hold liquor licenses. The retail price may not be less than the department's posted price.

(22)(23) "Rules" means rules adopted by the department or the department of justice pursuant to this code.

(23)(24) "Sacramental wine" means wine that contains more than 0.5% but not more than 24% of alcohol by volume that is manufactured and sold exclusively for use as sacramental wine or for other religious purposes.

(24)(25) "Special event", as it relates to an application for a beer and wine special permit, means a short, infrequent, out-of-the-ordinary occurrence, such as a picnic, fair, reception, or sporting contest.

(25)(26) "State liquor warehouse" means a building owned or under control of the department for the purpose of receiving, storing, transporting, or selling alcoholic beverages to agency liquor stores.

(26)(27) "Storage depot" means a building or structure owned or operated by a brewer at any point in the state of Montana off and away from the premises of a brewery, which building or structure is equipped with refrigeration or cooling apparatus for the storage of beer and from which a brewer may sell or distribute beer as permitted by this code.

(27)(28) "Subwarehouse" means a building or structure owned or operated by a licensed beer wholesaler or table wine distributor, located at a site in Montana other than the site of the beer wholesaler's or table wine distributor's warehouse or principal place of business, and used for the receiving, storage, and distribution of beer or table wine as permitted by this code.

(28)(29) "Table wine" means wine that contains not more than 16% of alcohol by volume and includes cider.

(29)(30) "Table wine distributor" means a person importing into or purchasing in Montana table wine or sacramental wine for sale or resale to retailers licensed in Montana.

(30)(31) "Warehouse" means a building or structure located in Montana that is owned or operated by a licensed beer wholesaler or table wine distributor for the receiving, storage, and distribution of beer or table wine as permitted by this code.

(31)(32) "Wine" means an alcoholic beverage made from or containing the normal alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except as may occur in the usual cellar treatment of clarifying and aging, and that contains more than 0.5% but not more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies, sweetened, and fortified in accordance with applicable federal regulations and the customs and practices of the industry. Other alcoholic beverages not defined in this subsection but made in the manner of wine and labeled and sold as wine in accordance with federal regulations are also wine."

Section 4. Section 16-4-207, MCA, is amended to read:

"16-4-207. Notice of application – investigation – publication – protest. (1) When an application has been filed with the department for a license to sell alcoholic beverages at retail or to transfer the location of a retail license, the department shall review the application for completeness and, based upon review of the application and any other information supplied to the department, determine whether the applicant or the premises to be licensed meets criteria provided by law. The department may make one request for additional information necessary to complete the application. The application is considered complete when the applicant furnishes the application information requested by the department. When the application is complete, the department of justice shall investigate the application as provided in 16-4-402. When the department determines that an application for a license under this code is complete, the department shall publish in a newspaper of general circulation in the city, town, or county from which the application comes a notice that the applicant has made application for a retail on-premises license or a transfer of location and that protests may be made against the approval of the application by residents of the county from which the application comes, residents of adjoining Montana counties, or residents of adjoining counties in another state if the criteria in subsection (4)(d) are met. Protests must be mailed to the department within 10 days after the final notice is published. Notice of application for a new license must be published once a week for 4 consecutive weeks. Notice of application for transfer of ownership or location of a license must be published once a week for 2 consecutive weeks. Notice may be substantially in the following form:

**NOTICE OF APPLICATION FOR RETAIL
ALL-BEVERAGES LICENSE**

Notice is given that on the day of, 20..., one (name of applicant) filed an application for a retail all-beverages license with the Montana department of revenue to be used at (describe location of premises where beverages are

to be sold). Residents of counties may protest against the approval of the application. Each protestor is required to mail a letter that contains in legible print the protestor's full name, mailing address, and street address. Each letter must be signed by the protestor. A protest petition bearing the names and signatures of persons opposing the approval of an application may not be considered as a protest. Protests may be mailed to, department of revenue, Helena, Montana, on or before the day of, 20.....

Dated

Signed

(a) Notice may be substantially in the following form for an applicant without a premises:

**NOTICE OF APPLICATION FOR RETAIL
ALL-BEVERAGES LICENSE**

Notice is given that on the day of, 20..., one (name of applicant) filed an application for a retail all-beverages license with the Montana department of revenue to be used within the (quota area). Residents of counties may protest against the approval of the application. Each protestor is required to mail a letter that contains in legible print the protestor's full name, mailing address, and street address. Each letter must be signed by the protestor. A protest petition bearing the names and signatures of persons opposing the approval of an application may not be considered as a protest. Protests may be mailed to, department of revenue, Helena, Montana, on or before the day of, 20.....

Dated

Signed

(b) Notice may be substantially in the following form for a premises only:

**NOTICE OF APPLICATION FOR RETAIL
ALL-BEVERAGES LICENSE**

Notice is given that on the day of, 20..., one (name of applicant) filed an application for a retail all-beverages license with the Montana department of revenue to be used at (describe location of premises where beverages are to be sold). Residents of counties may protest against the approval of the premises location only as notice of protest for the applicant has already occurred. Each protestor is required to mail a letter that contains in legible print the protestor's full name, mailing address, and street address. Each letter must be signed by the protestor. A protest petition bearing the names and signatures of persons opposing the approval of an application may not be considered as a protest. Protests may be mailed to, department of revenue, Helena, Montana, on or before the day of, 20.....

Dated

Signed

(c) Notice may be substantially in the following form for an applicant and premises applied for at the same time or if the location of the license will be floated out of the quota area it was initially noticed in:

**NOTICE OF APPLICATION FOR RETAIL
ALL-BEVERAGES LICENSE**

Notice is given that on the day of, 20..., one (name of applicant) filed an application for a retail all-beverages license with the Montana department of revenue to be used at (describe location of premises where beverages are to be sold). Residents of counties may protest against the approval of the application. Each protestor is required to mail a letter that contains in legible print the protestor's full name, mailing address, and street address. Each letter must be signed by the protestor. A protest petition bearing the names and signatures of persons opposing the approval of an application may not be considered as a protest. Protests may be mailed to, department of revenue, Helena, Montana, on or before the day of, 20.....

Dated

Signed

.....
(2) Each applicant shall, at the time of filing an application, pay to the department an amount sufficient to cover the costs of publishing the notice. *There may be two charges if the applicant applies for licensure prior to applying for a premises under [section 1].*

(3) (a) If the department receives no written protests, the department may approve the application without holding a public hearing.

(b) A response to a notice of opportunity to protest an application may not be considered unless the response is a letter satisfying all the requirements contained in the notice in subsection (1).

(c) If the department receives sufficient written protests that satisfy the requirements in subsection (1) against the approval of the application, the department shall hold a public hearing as provided in subsection (4).

(4) (a) If the department receives at least one protest but less than the number of protests required for a public convenience and necessity determination as specified in subsection (4)(c), the department shall schedule a public hearing to be held in Helena, Montana, to determine whether the protest presents sufficient cause to deny the application based on the qualifications of the applicant as provided in 16-4-401 or on the grounds for denial of an application provided for in 16-4-405, exclusive of public convenience and necessity. The hearing must be governed by the provisions of Title 2, chapter 4, part 6.

(b) If the department receives the number of protests required for a public convenience and necessity determination as specified in subsection (4)(c) and the application is for an original license or for a transfer of location, the department shall schedule a public hearing to be held in the county of the proposed location of the license to determine whether the protest presents sufficient cause to deny the application based on the qualifications of the applicant as provided in 16-4-401 or on the grounds for denial of an application provided for in 16-4-405 including public convenience and necessity. The hearing must be governed by the provisions of Title 2, chapter 4, part 6.

(c) The minimum number of protests necessary to initiate a public hearing to determine whether an application satisfies the requirements for public convenience and necessity, as specified in 16-4-203, for the proposed premises located within a quota area described in 16-4-201 must be 25% of the quota for all-beverages licenses determined for that quota area according to 16-4-201(1), (2), and (8) but in no case less than two. The minimum number of protests determined in this manner will apply only to applications for either on-premises consumption beer or all-beverages licenses.

(d) A resident of a county in another state that adjoins the county in Montana from which an application comes may protest an application only if the county or state of residence of the person has certified to the department that a similarly situated Montana resident would be able to make formal protest of a ~~liquor~~ *an alcoholic beverage* license application in that state or county. The department may, by rule, establish how the certification is to be made."

Section 5. Section 16-4-402, MCA, is amended to read:

"16-4-402. (Temporary) Application – investigation. (1) Prior to the issuance of a license under this chapter, the applicant shall file with the department an application containing information and statements relative to the applicant and the premises where the alcoholic beverage is to be sold as required by the department.

(2) (a) Upon receipt of a completed application for a license under this code, accompanied by the necessary license fee or letter of credit as provided in 16-4-501(7)(f), the department of justice shall make a thorough investigation of all matters relating to the application. Based on the results of the investigation or on other information, the department shall determine whether:

(i) the applicant is qualified to receive a license; *and*

(ii) (A) the applicant's premises are suitable for the carrying on of the business; *and*

~~(iii)(B) the requirements of this code and the rules promulgated by the department are met and complied with the applicant is qualified to receive a license prior to a determination that the applicant's premises are suitable for carrying on with the business in accordance with [section 1]; or~~

~~(C) if the applicant has already been issued a license, the proposed premises are suitable for the carrying on of the business.~~

(b) This subsection (2) does not apply to a catering endorsement provided in 16-4-111 or 16-4-204(11), a retail beer and wine license for off-premises consumption as provided in 16-4-115, or a special permit provided in 16-4-301.

(c) For an original license application and an application for transfer of location of a license, the department of justice's investigation and the department's determination under this subsection (2) must be completed within 90 days of the receipt of a completed application. If information is requested from the applicant by either department, the time period in this subsection (2)(c) is tolled until the requested information is received by the requesting department. The time period is also tolled if the applicant requests and is granted a delay in the license determination or if the license is for premises that are to be altered, as provided in 16-3-311, or newly constructed. *The time period is also tolled if the department receives sufficient written protests that satisfy the requirements in 16-4-207 until a final agency decision either denies or dismisses a protest against the approval of an application.* The basis for the tolling of the deadline must be documented.

(3) (a) Upon proof that an applicant made a false statement in any part of the original application, in any part of an annual renewal application, or in any hearing conducted pursuant to an application, the application for the license may be denied, and if issued, the license may be revoked.

(b) A statement on an application or at a hearing that is based upon a verifiable assertion made by a governmental officer, employee, or agent that an applicant relied upon in good faith may not be used as the basis of a false statement for a denial or revocation of a license.

~~(4) The department shall issue a conditional approval letter upon the last occurrence of either:~~

~~(a) completion of the investigation and determination provided for in subsection (2) if the department has not received information that would cause the department to deny the application; or~~

~~(b) a final agency decision that either denies or dismisses a protest against the approval of an application pursuant to 16-4-207.~~

~~(5) The conditional approval letter must state the reasons upon which the future denial of the application may be based. The reasons for denial of the application after the issuance of the conditional approval letter are as follows:~~

~~(a) there is false or erroneous information in the application;~~

~~(b) the premises are not approved by local building, health, or fire officials;~~

~~(c) there are physical changes to the premises that if known prior to the issuance of the conditional approval letter would have constituted grounds for the denial of the application or denial of the issuance of the conditional approval; or~~

~~(d) a final decision by a court exercising jurisdiction over the matter either reverses or remands the department's final agency decision provided for in subsection (4). (Terminates December 31, 2023--sec. 17, Ch. 5, Sp. L. November 2017.)~~

16-4-402. (Effective January 1, 2024) Application -- investigation.

(1) Prior to the issuance of a license under this chapter, the applicant shall file with the department an application containing information and statements relative to the applicant and the premises where the alcoholic beverage is to be sold as required by the department.

(2) (a) Upon receipt of a completed application for a license under this code, accompanied by the necessary license fee or letter of credit as provided in 16-4-501(7)(f), the department of justice shall make a thorough investigation of all matters relating to the application. Based on the results of the investigation or on other information, the department shall determine whether:

(i) the applicant is qualified to receive a license; *and*

(ii) (A) the applicant's premises are suitable for the carrying on of the business; *and*

~~(iii)(B) the requirements of this code and the rules promulgated by the department are met and complied with the applicant is qualified to receive a license prior to the determination that the applicant's premises are suitable for carrying on with the business in accordance with [section 1]; or~~

~~(C) if the applicant has already issued a license, the proposed premises are suitable for the carrying on of the business.~~

(b) This subsection (2) does not apply to a catering endorsement provided in 16-4-111 or 16-4-204(4), a retail beer and wine license for off-premises consumption as provided in 16-4-115, or a special permit provided in 16-4-301.

(c) For an original license application and an application for transfer of location of a license, the department of justice's investigation and the department's determination under this subsection (2) must be completed within 90 days of the receipt of a completed application. If information is requested from the applicant by either department, the time period in this subsection (2)(c) is tolled until the requested information is received by the requesting department. The time period is also tolled if the applicant requests and is granted a delay in the license determination or if the license is for premises that are to be altered, as provided in 16-3-311, or newly constructed. The basis for the tolling of the deadline must be documented.

(3) (a) Upon proof that an applicant made a false statement in any part of the original application, in any part of an annual renewal application, or in any hearing conducted pursuant to an application, the application for the license may be denied, and if issued, the license may be revoked.

(b) A statement on an application or at a hearing that is based upon a verifiable assertion made by a governmental officer, employee, or agent that an applicant relied upon in good faith may not be used as the basis of a false statement for a denial or revocation of a license.

~~(4) The department shall issue a conditional approval letter upon the last occurrence of either:~~

~~(a) completion of the investigation and determination provided for in subsection (2) if the department has not received information that would cause the department to deny the application; or~~

~~(b) a final agency decision that either denies or dismisses a protest against the approval of an application pursuant to 16-4-207.~~

~~(5) The conditional approval letter must state the reasons upon which the future denial of the application may be based. The reasons for denial of the application after the issuance of the conditional approval letter are as follows:~~

~~(a) there is false or erroneous information in the application;~~

~~(b) the premises are not approved by local building, health, or fire officials;~~

~~(c) there are physical changes to the premises that if known prior to the issuance of the conditional approval letter would have constituted grounds for the denial of the application or denial of the issuance of the conditional approval; or~~

~~(d) a final decision by a court exercising jurisdiction over the matter either reverses or remands the department's final agency decision provided for in subsection (4)."~~

Section 6. Section 16-4-405, MCA, is amended to read:

"16-4-405. Denial of license. (1) The department may deny the issuance of a retail alcoholic beverages license if it determines that the premises proposed for licensing are off regular police beats and cannot be properly policed by local authorities.

(2) A retail license may not be issued by the department for a premises situated within a zone of a city, town, or county where the sale of alcoholic beverages is prohibited by ordinance, a certified copy of which has been filed with the department.

(3) A license under this code may not be issued if the department finds from the evidence at the hearing held pursuant to 16-4-207(3) that:

(a) the welfare of the people residing or of retail licensees located in the vicinity of the premises for which the license is desired will be adversely and seriously affected;

(b) if required, there is not a public convenience and necessity justification pursuant to 16-4-203;

(c) the applicant or the premises proposed for licensing fail to meet the eligibility or suitability criteria established by this code; or

~~(d) a possible reason for denial listed in a conditional approval letter, as provided in 16-4-402, has been verified; or~~

~~(e)(d) the purposes of this code will not be carried out by the issuance of the license."~~

Section 7. Section 16-4-406, MCA, is amended to read:

"16-4-406. Renewal – suspension or revocation – penalty – mitigating and aggravating circumstances. (1) The department shall upon a written, verified complaint of a person request that the department of justice investigate the action and operation of a brewer, winery, wholesaler, domestic distillery, table wine distributor, beer or wine importer, retailer, *concessionaire*, or any other person or business licensed or registered under this code.

(2) Subject to the opportunity for a hearing under the Montana Administrative Procedure Act, if the department, after reviewing admissions of *either the licensee or concessionaire* or receiving the results of the department of justice's or a local law enforcement agency's investigation, has reasonable cause to believe that a licensee *or concessionaire* has violated a provision of this code or a rule of the department, it may, in its discretion and in addition to the other penalties prescribed:

- (a) reprimand a licensee *or concessionaire or both*;
- (b) proceed to revoke the license of the licensee *or the concession agreement of the concessionaire or both*;
- (c) suspend the license *or the concession agreement or both* for a period of not more than 3 months;
- (d) refuse to grant a renewal of the license *or concession agreement or both* after its expiration; or
- (e) impose a civil penalty not to exceed \$1,500.

(3) The department shall consider mitigating circumstances and may adjust penalties within penalty ranges based on its consideration of mitigating circumstances. Examples of mitigating circumstances are:

- (a) there have been no violations by the licensee *or concessionaire or both* within the past 3 years;
- (b) there have been good faith efforts by the licensee *or concessionaire or both* to prevent a violation;
- (c) written policies exist that govern the conduct of the licensee's employees *or the concessionaire's employees or both*;
- (d) there has been cooperation in the investigation of the violation that shows that the licensee *or concessionaire or both* or an employee or agent of the licensee *or concessionaire or both* accepts responsibility;

(e) the investigation was not based on complaints received or on observed misconduct, but was based solely on the investigating authority creating the opportunity for a violation; or

(f) the licensee *or concessionaire has or both have* provided responsible alcohol server training to all of ~~its~~ *their* employees.

(4) The department shall consider aggravating circumstances and may adjust penalties within penalty ranges based on its consideration of aggravating circumstances. Examples of aggravating circumstances are:

- (a) prior warnings about compliance problems;
- (b) prior violations within the past 3 years;
- (c) lack of written policies governing employee conduct;
- (d) multiple violations during the course of the investigation;
- (e) efforts to conceal a violation;
- (f) the intentional nature of the violation; or
- (g) involvement of more than one patron or employee in a violation."

Section 8. Section 16-4-420, MCA, is amended to read:

"16-4-420. (Temporary) Restaurant beer and wine license – competitive bidding – rulemaking. (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions:

(a) the applicant complies with the licensing criteria provided in 16-4-401 for an on-premises consumption license;

(b) the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that:

(i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and intends to operate the restaurant so that at

least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food;

(ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and

(iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule;

(c) the applicant understands and acknowledges in writing on the application that this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine license will be used, the activity must be discontinued or the machines must be removed before the restaurant beer and wine license takes effect; and

(d) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating.

(2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location.

(b) (i) An on-premises retail licensee who sells the licensee's existing retail license may not apply for a license under this section for a period of 1 year from the date that license is transferred to a new purchaser.

(ii) A person, including an individual, with an ownership interest in an existing on-premises retail license that is being transferred to a new purchaser may not attain an ownership interest in a license applied for under this section for a period of 1 year from the date that the existing on-premises retail license is transferred to a new purchaser.

(3) A completed application for a license under this section and the appropriate application fee, as provided in subsection (11), must be submitted to the department. The department shall investigate the items relating to the application as described in subsections (3)(a) through (3)(d). Based on the results of the investigation and the exercise of its sound discretion, the department shall determine whether:

(a) the applicant is qualified to receive a license; and

~~(b)(i)~~ the applicant's premises are suitable for the carrying on of the business;

~~(c)(ii) the requirements of this code and the rules promulgated by the department are complied with~~ *the applicant is qualified to receive a license prior to a determination that the applicant's premises are suitable for carrying on with the business in accordance with [section 1]; and or*

~~(d)(iii) if the applicant has already been issued a license, the proposed premises are suitable for the carrying on of the business and the seating capacity stated on the application is correct.~~

(4) An application for a beer and wine license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(5) If a premises proposed for licensing under this section is a new or remodeled structure, then the department may issue a ~~conditional~~ license prior to completion of the premises based on reasonable evidence, including a statement from the applicant's architect or contractor confirming that the seating capacity stated on the application is correct, that the premises will be suitable for the carrying on of business as a bona fide restaurant, as defined in subsection (6). *If a license is issued without a premises, the license will*

immediately be placed on nonuse until the premises are approved subject to [section 1].

(6) (a) For purposes of this section, “restaurant” means a public eating place:

(i) where individually priced meals are prepared and served for on-premises consumption;

(ii) where at least 65% of the restaurant’s annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food.

(iii) that has a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant; and

(iv) that serves an evening dinner meal at least 4 days a week for at least 2 hours a day between the hours of 5 p.m. and 11 p.m. The provisions of subsection (6)(b) and this subsection (6)(a)(iv) do not apply to a restaurant for which a restaurant beer and wine license is in effect as of April 9, 2009, or to subsequent renewals of that license.

(b) The term does not mean a fast-food restaurant that, excluding any carry-out business, serves a majority of its food and drink in throw-away containers not reused in the same restaurant.

(7) (a) A restaurant beer and wine license may be transferred, on approval by the department, from the original applicant to a new owner of the restaurant only after 1 year of use by the original owner.

(b) A license issued under this section may be jointly owned, and the license may pass to the surviving joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property upon the death of the owner in this state or in another state.

(c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of the department, transfer a restaurant beer and wine license to a new owner.

(8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(ii) for a restaurant located in a quota area with a population of 5,001 to 20,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 160% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 100% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105; and

(v) for a restaurant located in a quota area that is also a resort community, as defined in 7-6-1501, if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than 200% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through (8)(a)(v), the department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under subsection (8)(a)(i), there must be a one-time adjustment of four additional licenses for that quota area.

(9) If any new restaurant beer and wine licenses are allowed by separating a combined quota area, pursuant to 16-4-105 as of November 24, 2017, the department shall publish the availability of no more than one new restaurant beer and wine license a year until the quota has been reached.

(10) When a restaurant beer and wine license becomes available by the initial issuance of licenses under this section or as the result of an increase in the population in a quota area, the nonrenewal of a restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department shall advertise the availability of the license in the quota area for which it is available.

(11) When the department determines that a quota area is eligible for a new restaurant beer and wine license under subsection (9) or (10), the department shall use a competitive bidding process to determine the party afforded the opportunity to apply for a new license. The department shall:

(a) determine the minimum bid based on 75% of the market value of all restaurant beer and wine licenses in the quota area;

(b) publish notice that a quota area is eligible for a new license;

(c) notify the bidder with the highest bid; and

(d) keep confidential the identity of bidders, number of bids, and bid amounts until the highest bidder has been approved.

(12) To enter the competitive bidding process, a bidder shall submit:

(a) an application form provided by the department; and

(b) an irrevocable letter of credit from a financial institution establishing the department as the beneficiary of the bid amount.

(13) The highest bidder shall:

(a) submit an application provided by the department and applicable fees for the license within 60 days of the department's notification of being the highest bidder;

(b) pay the bid amount prior to the license being approved;

(c) meet all other requirements to own a restaurant beer and wine license; and

(d) commence business within 1 year of the department's notification unless the department grants an extension because commencement was delayed by circumstances beyond the applicant's control.

(14) In the case of a tie for the highest bid, the tied bidders may submit new bids. The minimum bid must be set at the tied bid amount. To submit a new bid, a tied bidder shall submit:

(a) an application form provided by the department; and
(b) an irrevocable letter of credit from a financial institution establishing the department as the beneficiary of the new bid amount.

(15) If the highest bidder is not approved to own the license, the department shall offer the license to the next highest bidder. That bidder shall comply with the requirements of subsection (13).

(16) If no bids are received during the competitive bidding process or if a quota area is already eligible for another new license, the department shall process applications for the license in the order received.

(17) (a) The successful applicant is subject to forfeiture of the license and the original license fee if the successful applicant:

(i) transfers an awarded license to another person after receiving the license unless that transfer is due to the death of an owner;

(ii) does not use the license within 1 year of receiving the license or stops using the license within 5 years. The department may extend the time for use if the successful applicant provides evidence that the delay in use is for reasons outside the applicant's control; or

(iii) proposes a location for the license that had the same license type within the previous 12 months.

(b) If a license is forfeited, the department shall offer the license to the next eligible highest bidder in the auction.

(18) Under a restaurant beer and wine license, beer and wine may not be sold for off-premises consumption.

(19) An application for a restaurant beer and wine license must be accompanied by a fee equal to 20% of the initial licensing fee. If the department does not make a decision either granting or denying the license within 4 months of receipt of a complete application, the department shall pay interest on the application fee at the rate of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If the department denies an application, the application fee, plus any interest, less a processing fee established by rule, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

(a) \$5,000 for restaurants with a stated seating capacity of 60 persons or less;

(b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or

(c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

(20) The annual fee for a restaurant beer and wine license is \$400.

(21) If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

(22) The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the total licenses issued.

(23) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity

may not occur on the premises of a restaurant with a restaurant beer and wine license.

(24) The department may adopt rules to implement this section. (Terminates December 31, 2023--sec. 17, Ch. 5, Sp. L. November 2017.)

16-4-420. (Effective January 1, 2024) Restaurant beer and wine license -- rulemaking. (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions:

(a) the applicant complies with the licensing criteria provided in 16-4-401 for an on-premises consumption license;

(b) the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that:

(i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food;

(ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and

(iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule;

(c) the applicant understands and acknowledges in writing on the application that this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine license will be used, the activity must be discontinued or the machines must be removed before the restaurant beer and wine license takes effect; and

(d) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating.

(2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location.

(b) (i) An on-premises retail licensee who sells the licensee's existing retail license may not apply for a license under this section for a period of 1 year from the date that license is transferred to a new purchaser.

(ii) A person, including an individual, with an ownership interest in an existing on-premises retail license that is being transferred to a new purchaser may not attain an ownership interest in a license applied for under this section for a period of 1 year from the date that the existing on-premises retail license is transferred to a new purchaser.

(3) A completed application for a license under this section and the appropriate application fee, as provided in subsection (11), must be submitted to the department. The department shall investigate the items relating to the application as described in subsections (3)(a) through (3)(d). Based on the results of the investigation and the exercise of its sound discretion, the department shall determine whether:

(a) the applicant is qualified to receive a license; *and*

(b) (i) the applicant's premises are suitable for the carrying on of the business;

~~(c)(ii) the requirements of this code and the rules promulgated by the department are complied with; the applicant is qualified to receive a license~~

prior to a determination that the applicant's premises are suitable for carrying on with the business in accordance with [section 1]; and or

(d)(iii) if the applicant has already been issued a license, the proposed premises are suitable for the carrying on of the business and the seating capacity stated on the application is correct.

(4) An application for a beer and wine license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(5) If a premises proposed for licensing under this section is a new or remodeled structure, then the department may issue a conditional license prior to completion of the premises based on reasonable evidence, including a statement from the applicant's architect or contractor confirming that the seating capacity stated on the application is correct, that the premises will be suitable for the carrying on of business as a bona fide restaurant, as defined in subsection (6). *If a license is issued without premises approval, the license will immediately be placed on nonuse until the premises are approved subject to [section 1].*

(6) (a) For purposes of this section, "restaurant" means a public eating place:

(i) where individually priced meals are prepared and served for on-premises consumption;

(ii) where at least 65% of the restaurant's annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food.

(iii) that has a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant; and

(iv) that serves an evening dinner meal at least 4 days a week for at least 2 hours a day between the hours of 5 p.m. and 11 p.m. The provisions of subsection (6)(b) and this subsection (6)(a)(iv) do not apply to a restaurant for which a restaurant beer and wine license is in effect as of April 9, 2009, or to subsequent renewals of that license.

(b) The term does not mean a fast-food restaurant that, excluding any carry-out business, serves a majority of its food and drink in throw-away containers not reused in the same restaurant.

(7) (a) A restaurant beer and wine license may be transferred, on approval by the department, from the original applicant to a new owner of the restaurant only after 1 year of use by the original owner.

(b) A license issued under this section may be jointly owned, and the license may pass to the surviving joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property upon the death of the owner in this state or in another state.

(c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of the department, transfer a restaurant beer and wine license to a new owner.

(8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population

is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(ii) for a restaurant located in a quota area with a population of 5,001 to 20,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 160% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 100% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105; and

(v) for a restaurant located in a quota area that is also a resort community, as defined in 7-6-1501, if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than 200% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through (8)(a)(v), the department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under subsection (8)(a)(i), there must be a one-time adjustment of four additional licenses for that quota area.

(d) If there are more applicants than licenses available in a quota area, then the license must be awarded by lottery as provided in subsection (10).

(9) If any new restaurant beer and wine licenses are allowed by separating a combined quota area, pursuant to 16-4-105 as of November 24, 2017, the department shall publish the availability of no more than one new restaurant beer and wine license a year until the quota has been reached.

(10) (a) When a restaurant beer and wine license becomes available by the initial issuance of licenses under this section or as the result of an increase in the population in a quota area, the nonrenewal of a restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department shall advertise the availability of the license in the quota area for which it is available. If there are more applicants than number of licenses available, the license must be awarded to an applicant by a lottery.

(b) A preference must be given to an applicant who does not yet have in any quota area a restaurant beer and wine license or a retail beer license and who operates a restaurant that is in the quota area described in subsection (8) in which the license has become available and that meets the qualifications of subsection (6) for at least 12 months prior to the filing of an application. An applicant with a preference must be awarded a license before any applicant without a preference.

(c) The department shall numerically rank all applicants in the lottery. Only the successful applicants will be required to submit a completed application and a one-time required fee. An applicant's ranking may not be sold or transferred to another person or entity. The preference and an applicant's

ranking apply only to the intended license advertised by the department or to the number of licenses determined under subsection (8) when there are more applicants than licenses available. The applicant's qualifications for any other restaurant beer and wine license awarded by lottery must be determined at the time of the lottery.

(d) If a successful lottery applicant does not use a license within 1 year of notification by the department of license eligibility, the applicant shall forfeit the license. The department shall refund any fees paid except the application fee and offer the license to the next eligible ranked applicant in the lottery.

(11) Under a restaurant beer and wine license, beer and wine may not be sold for off-premises consumption.

(12) An application for a restaurant beer and wine license must be accompanied by a fee equal to 20% of the initial licensing fee. If the department does not make a decision either granting or denying the license within 4 months of receipt of a complete application, the department shall pay interest on the application fee at the rate of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If the department denies an application, the application fee, plus any interest, less a processing fee established by rule, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

(a) \$5,000 for restaurants with a stated seating capacity of 60 persons or less;

(b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or

(c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

(13) The annual fee for a restaurant beer and wine license is \$400.

(14) If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

(15) The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the total licenses issued.

(16) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license.

(17) The department may adopt rules to implement this section."

Section 9. Section 23-5-117, MCA, is amended to read:

"23-5-117. Premises approval. (1) ~~Except as provided in subsection (4), the~~ The department may approve a premises for issuance *or operation* of an operator's license if the premises meets the requirements contained in subsections (2) and (3).

(2) The premises *may include any concessioned area provided for in [section 2] and* must:

(a) be a structure or facility that is clearly defined by permanently installed walls that extend from floor to ceiling;

(b) have a unique address assigned by the local government in which the premises is located; ~~and~~

(c) have a public external entrance, leading to a street or other common area, that is not shared with another premises for which an operator's license has been issued; ~~and~~

(d) *be designed and arranged to allow for observation and control of all gambling activities by the gambling operator.*

(3) If the premises shares a common internal wall with another premises for which an operator's license has been issued, the common wall must be permanently installed, opaque, and extend from floor to ceiling and may not contain an internal entrance through which public access is allowed.

(4) ~~A second operator's license may be issued or renewed until June 30, 2001, for a person operating a gambling activity on a premises that did not meet the requirements of subsections (2) and (3) if:~~

~~(a) the second operator's license was issued to the person on or before January 1, 1991; or~~

~~(b) (i) the application for the second operator's license was received by the department on or before January 1, 1991;~~

~~(ii) a second on-premises alcoholic beverages license was obtained for the premises on or before January 1, 1991; and~~

~~(iii) substantial physical modifications to the premises were made on or before January 1, 1991."~~

Section 10. Section 23-5-177, MCA, is amended to read:

"23-5-177. Operator of gambling establishment -- license -- fee.

(1) Except as provided in 23-5-310 and 23-5-410, it is a misdemeanor for a person who is not licensed by the department as an operator to make available to the public for play a gambling device or gambling enterprise for which a permit must be obtained from the department.

(2) To obtain an operator's license, a person shall submit to the department:

(a) a completed operator's license application on a form prescribed and furnished by the department;

(b) the person's fingerprints and, if the applicant is a corporation, the fingerprints of each person holding 10% or more of the outstanding stock of the corporation and of each officer and director of the corporation, to be used for a fingerprint and background check that must be used by the department in determining eligibility for a license;

(c) any other relevant information requested by the department; and

(d) a license application processing fee, as required in subsection (8).

(3) Before issuing an operator's license, the department shall approve, in accordance with 23-5-117, the premises in which the gambling activity is to be conducted. *However, for applicants issued an alcoholic beverage license under [section 1], the department may approve the gambling operator license prior to approval of the premises. Gambling activities may not occur until the premises has been approved in accordance with 23-5-117.*

(4) Except as provided in 23-5-117, regardless of the number of on-premises alcoholic beverage licenses issued for a premises, the department may issue only one operator's license for the premises.

(5) An operator's license must include the following information:

(a) a description of the premises upon which the gambling will take place;

(b) the operator's name;

(c) a description of each gambling device or card game table for which a permit has been issued to the operator by the department for play upon the premises, including the type of game and permit number for each game; and

(d) any other relevant information determined necessary by the department.

(6) The operator's license must be issued annually along with all other permits for gambling devices or games issued to the operator.

(7) The operator's license must be updated each time a video gambling machine, bingo, keno, or card game table permit is newly issued or the machine or game is removed from the premises.

(8) The department shall charge an applicant who has submitted an operator's license application on or after July 1, 1991, a one-time license application processing fee to cover the actual cost incurred by the department in determining whether the applicant qualifies for licensure under 23-5-176. After making its determination, the department shall refund any overpayment or charge and collect amounts sufficient to reimburse the department for any underpayment of actual costs.

(9) The operator's license must be prominently displayed upon the premises for which it is issued."

Section 11. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 16, chapter 4, and the provisions of Title 16, chapter 4, apply to [sections 1 and 2].

Section 12. Effective dates. (1) Except as provided in subsection (2), [this act] is effective October 1, 2019.

(2) [Sections 2, 3, 7, and 9] and this section are effective on passage and approval.

Approved May 10, 2019

CHAPTER NO. 480

[HB 731]

AN ACT REVISING CREDIT UNION LAWS TO PROVIDE PENALTIES FOR DIRECTORS AND OTHERS IN POSITIONS OF RESPONSIBILITY FOR FALSE STATEMENTS, FRAUD, OR OTHER ACTS OF DECEPTION; PROVIDING FOR REMOVAL OF DIRECTORS, OFFICERS, OR EMPLOYEES FOR CERTAIN ACTIONS; PROVIDING PRIMA FACIE EVIDENCE IF CREDIT UNION LOSSES ARE TIED TO CERTAIN DISHONEST ACTIONS CITED BY THE DEPARTMENT OF ADMINISTRATION; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Penalty for false statements or entries to books and records. (1) The department of administration may impose a fine not exceeding \$50,000 on a director, an executive officer, an agent, or an employee of a credit union who willfully and knowingly:

(a) makes or subscribes a false statement of facts, statement of account, or report; or

(b) makes a false entry in the books of the credit union or knowingly subscribes or exhibits false papers with the intent to deceive a person authorized to examine the credit union.

(2) The fines must be deposited in the general fund.

Section 2. Penalty for fraud by director, executive officer, agent, or employee. (1) The department of administration may impose the penalty described in subsection (2) if a director, an executive officer, an agent, or an employee of a credit union:

(a) (i) knowingly receives or takes possession of any credit union property, except in payment for a just demand; and

(ii) with the intent to defraud fails to make or to cause or direct to be made a full and true entry of the receipt or possession in its books and accounts or concurs in failing to make a material entry in its books and account;

(b) knowingly concurs in making or publishing a written report, exhibit, or statement of its affairs or pecuniary condition containing any material statement that is false; or

(c) having the custody or control of the credit union's books, willfully refuses or neglects to make a proper entry in the credit union's books as required by law, to exhibit the books, or to allow the books to be inspected and allow extracts to be taken from the books by the department.

(2) An individual who is found guilty or pleads guilty to a charge under subsection (1) may be imprisoned in a state correctional facility for a term not exceeding 5 years or be fined by the department an amount not to exceed \$10,000, or both.

Section 3. Theft of funds. (1) The following conditions are considered theft for which the offender, upon conviction, is to be imprisoned in a state correctional facility for a term not exceeding 20 years and fined by the department of administration an amount not to exceed \$50,000:

(a) fraudulent appropriation, misapplication, or theft of the money, funds, credits, or property of a credit union, whether owned by the credit union or held in trust;

(b) fraudulent issuance or putting forth of a share certificate;

(c) fraudulent drawing of an order or bill of exchange;

(d) fraudulent acceptance or assignment of a note, bond, draft, bill of exchange, mortgage, judgment, or decree with intent to injure or defraud the credit union; or

(e) fraudulent attempt to deceive an officer of the credit union or anyone appointed to examine the affairs of the credit union.

(2) This section applies to a credit union director, officer, or employee or any person who with like intent aids or abets any individual listed under this subsection (2) in the actions listed in subsection (1).

Section 4. Concealing actions from directors. (1) An officer or employee of a credit union who intentionally conceals from the directors or a committee of the directors any of the actions under subsection (2) may be charged with a misdemeanor, and upon being found guilty or pleading guilty is subject for each offense to a term of not more than 12 months in the county jail or a fine by the department of administration of not more than \$500, or both.

(2) The following actions intentionally concealed from the directors are violations of this chapter:

(a) providing a discount, an extension of credit, or a loan made on behalf of the credit union; or

(b) purchasing a security, selling any of the credit union's securities, or making any guarantee, repurchase agreement, or other agreement obligating the credit union.

Section 5. False statement to obtain or extend loan. An individual may be fined by the department of administration not more than \$1,000 for each false statement made:

(1) to obtain for the individual or for another person, a firm, a corporation, or an association a loan of money from a credit union;

(2) to gain an extension of time for the payment of a debt owed to the credit union; or

(3) to extend credit to a customer.

Section 6. Removal of directors, officers, employees -- hearing.

(1) A director, an officer, or an employee of a credit union who is found by the

department of administration, after examination, to be negligent, dishonest, reckless, or incompetent or to have violated the provisions of [sections 1 through 5] must be removed from office by the supervisory committee of the credit union on the written order of the department.

(2) If the directors neglect or refuse to remove the director, officer, or employee and any losses accrue to the credit union by reason of the negligence, dishonesty, recklessness, or incompetency of the director, officer, or employee, the department's written order is conclusive evidence of the negligence of the directors' failure to act as required in subsection (1) in any action brought against the board of directors by a member of the credit union for recovery of losses.

(3) If the supervisory committee refuses to remove the director, officer, or employee on order of the department, the supervisory committee may file a request for hearing pursuant to the Montana Administrative Procedure Act.

Section 7. Codification instruction. [Sections 1 through 6] are intended to be codified as an integral part of Title 32, chapter 3, and the provisions of Title 32, chapter 3, apply to [sections 1 through 6].

Section 8. Effective date. [This act] is effective July 1, 2019.

Approved May 10, 2019

CHAPTER NO. 481

[HB 748]

AN ACT ESTABLISHING THE MINNIE SPOTTED-WOLF MEMORIAL HIGHWAY IN PONDERA COUNTY; DIRECTING THE DEPARTMENT OF TRANSPORTATION TO INSTALL SIGNS AT THE LOCATION AND TO INCLUDE THE MEMORIAL HIGHWAY ON THE NEXT PUBLICATION OF THE STATE HIGHWAY MAP; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, Minnie Spotted-Wolf was born on a ranch near Heart Butte, Montana, in 1923; and

WHEREAS, Minnie Spotted-Wolf was a member of the Blackfeet Tribe; and

WHEREAS, as a young woman, Minnie Spotted-Wolf worked her father's ranch, where her work included driving a 2-ton truck and breaking horses; and

WHEREAS, Private Minnie Spotted-Wolf became the first Native American woman to serve in the United States Marine Corps when she enlisted in the Marine Corps Women's Reserve in July 1943; and

WHEREAS, Minnie Spotted-Wolf's ranch working experience served her well as a heavy equipment operator and driver for the United States Marine Corps; and

WHEREAS, Minnie Spotted-Wolf served in the United States Marine Corps in World War II and in peace time, from 1943 to 1947; and

WHEREAS, after her military service, Minnie Spotted-Wolf earned a Bachelor of Arts degree in Elementary Education from Northern Montana College and spent 29 years as a teacher; and

WHEREAS, Minnie Spotted-Wolf passed away on January 1, 1988, leaving a legacy of service, both as a Marine and as a teacher; and

WHEREAS, the 66th Legislature of the State of Montana honors Minnie Spotted-Wolf for her exemplary life of service and leadership.

Be it enacted by the Legislature of the State of Montana:

Section 1. Minnie Spotted-Wolf memorial highway. (1) There is established the Minnie Spotted-Wolf memorial highway on existing U.S. highway 89 from mile marker 85.3 to mile marker 89.

(2) The department shall design and install appropriate signs marking the location of the Minnie Spotted-Wolf memorial highway.

(3) Maps that identify roadways in Montana must be updated to include the location of the Minnie Spotted-Wolf memorial highway when the department updates and publishes the state maps.

Section 2. Appropriation. There is appropriated \$1 from the general fund to the department of transportation for the fiscal year ending June 30, 2020, for the purpose of [section 1].

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 60, chapter 1, part 2, and the provisions of Title 60, chapter 1, part 2, apply to [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

Approved May 10, 2019

CHAPTER NO. 482

[HB 763]

AN ACT GENERALLY REVISING LAWS RELATED TO THE DEPARTMENT OF CORRECTIONS; PROVIDING A STATE POLICY ON RESTRICTIVE HOUSING; CREATING REQUIREMENTS FOR RESTRICTIVE HOUSING UNITS, INCLUDING ADMISSION AND RELEASE, PERIODIC INMATE REVIEWS, HEALTH AND MENTAL HEALTH TREATMENT, STAFFING, AND OTHER CONDITIONS OF CONFINEMENT FOR INMATES IN THE UNIT; CREATING REQUIREMENTS SPECIFIC TO YOUTH FACILITIES; REQUIRING STEP-DOWN PROGRAMS; REQUIRING CERTAIN NOTIFICATIONS WHEN AN INMATE IS RELEASED TO THE COMMUNITY DIRECTLY FROM A RESTRICTIVE HOUSING UNIT; PROVIDING APPROPRIATIONS; AND PROVIDING EFFECTIVE DATES.

Be it enacted by the Legislature of the State of Montana:

Section 1. Policy – restrictive housing. (1) It is the policy of the state of Montana that the department of corrections and the facilities it operates or with which it contracts maintain safe, secure housing for inmates who require separation from the general inmate population for detention or for safety and security reasons.

(2) Restrictive housing should only be used:

- (a) as a response to the most serious and threatening behavior;
- (b) for the shortest time possible; and
- (c) with the least restrictive conditions possible.

Section 2. Definitions. As used in [sections 1 through 13], the following definitions apply:

(1) “Administrative segregation” means a nonpunitive housing status for inmates whose continued presence in the general population may pose a serious threat to life, property, self, staff, other inmates, or the facility’s security or orderly operation.

(2) “Administrator” means the official, regardless of local title, who is ultimately responsible for the operation and management of a division, facility, or program.

(3) "Department" means the department of corrections provided for in 2-15-2301.

(4) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, a person who has a record of such an impairment, or a person who is regarded as having such an impairment.

(5) "Disciplinary detention" means a form of separation from the general population in which an inmate who has committed a serious violation of conduct regulations is confined to an individual cell by a disciplinary committee or other authorized group for short periods of time.

(6) "Facility" means a state prison defined in 53-30-101(3)(c)(i) through (3)(c)(iii) and (3)(c)(v) or a youth correctional facility pursuant to 52-5-101.

(7) "Mental disorder" means exhibiting impaired emotional, cognitive, or behavioral functioning that interferes seriously with an individual's ability to function adequately except with supportive treatment or services. The individual also must:

(a) currently have or have had within the past year a diagnosed mental disorder; and

(b) currently exhibit significant signs and symptoms of a mental disorder.

(8) "Postpartum" means the first 6 weeks after delivery.

(9) "Prehearing confinement" means a short-term, nonpunitive housing status that is used to safely and securely control high-risk or at-risk inmates.

(10) "Protective custody" means a form of separation from the general population for an inmate who requests or requires protection from other inmates for reasons of health or safety.

(11) "Qualified mental health professional" includes psychiatrists, psychologists, psychiatric social workers, licensed professional counselors, psychiatric nurses, or others who, by virtue of their education, credentials, and experience, are permitted by law to evaluate and care for the mental health needs of patients.

(12) "Restrictive housing" means a placement that requires an inmate to be confined to a cell for at least 22 hours a day for the safe and secure operation of the facility. The term includes administrative segregation, protective custody, and disciplinary detention.

(13) "Step-down program" means an individualized program that includes a system of review and establishes criteria to prepare an inmate for transition to the general population or the community and that involves a coordinated, multidisciplinary team approach that includes mental health, case management, and security practitioners.

(14) "Temporary confinement" has the same meaning as "prehearing confinement" as defined in this section.

Section 3. General requirements for restrictive housing – procedures. (1) An inmate may be housed in administrative segregation during an investigation of alleged violations.

(2) An inmate may be placed in disciplinary detention only after a finding of a rule violation at an impartial hearing and when there is not an adequate alternative disposition to regulate the inmate's behavior.

(3) An inmate's status in protective custody must be reviewed periodically by a classification committee or other designated group.

(4) Medical personnel must be part of a multidisciplinary team when an inmate who has chronic care or other significant medical accommodation needs participates in a step-down program.

(5) An inmate's placement in restrictive housing may not exceed 22 hours in a 24-hour period and is limited to circumstances that pose a direct threat to

the safety of persons or a clear threat to the safe and secure operations of the facility. Placement may be made only after considering:

(a) the relationship between the threat the offender poses and the behaviors articulated in the schedule established pursuant to subsection (9);

(b) the impact that restrictive housing may have on the medical and mental health conditions exhibited by the inmate and possible alternatives that may be available to compensate for these conditions; and

(c) a description of alternatives to restrictive housing that may be available to safely address the threat posed by the inmate.

(6) Female inmates determined to be pregnant or postpartum may not be housed in restrictive housing unless exigent circumstances exist. If exigent circumstances exist, a female inmate who is pregnant or postpartum may be placed in restrictive housing for a time not to exceed 24 hours. Any extension for exigent circumstances must be approved by the administrator or the administrator's designee.

(7) A facility shall establish written operational procedures to govern restrictive housing and protective custody units for the supervision of inmates under administrative segregation, disciplinary detention, prehearing confinement, and protective custody. The operational procedures that govern restrictive housing and protective custody must incorporate American correctional association standards that do not conflict with the provisions of [sections 1 through 13].

(8) The administrator, a shift supervisor, or a designee of either the administrator or a shift supervisor of an adult facility may order immediate segregation or placement in a restrictive housing unit when it is necessary to protect the inmate or others. The action must be reviewed within 24 hours by the appropriate supervisor.

(9) An adult facility shall maintain a sanctioning schedule for facility rule violations.

(10) The administrator or the administrator's designee shall review the confinement of an adult inmate that continues beyond 30 days. Continuous confinement of an adult inmate for more than 30 days requires the approval of the administrator or the administrator's designee.

Section 4. Admission – status review. (1) The procedures established by an adult facility as required in [section 3(7)] must include:

(a) a documented process to admit an inmate to a restrictive housing unit. An inmate may be admitted for protective custody only when there is documentation that this status is warranted and no reasonable alternatives were available.

(b) a status review of an inmate in administrative segregation and protective custody every 7 days for the first 60 days of the inmate's placement and at least every 30 days after the first 60 days. The reviews must be conducted by a classification committee or other staff group.

(c) that, in nonemergent circumstances, an inmate may not be disciplined, placed on a behavior management plan, classified, or reclassified to a restrictive housing unit based on the inmate's disability or mental disorder or on behavior that is a product of the inmate's disability or mental disorder unless the placement is after a prompt and appropriate evaluation by a qualified mental health professional;

(d) a documented review process to release an offender from administrative segregation or protective custody;

(e) that an inmate may not be placed in prehearing confinement or in restrictive housing based solely on the inmate's disability or mental disorder or on behavior that is a product of the inmate's disability or mental disorder

unless, after a prompt and appropriate evaluation by a qualified mental health professional, the qualified mental health professional determines that the inmate presents such an immediate and serious danger that there is no reasonable alternative. If the inmate is placed in prehearing confinement or in restrictive housing, the inmate must be evaluated by a qualified mental health professional within 48 hours and regularly reevaluated every 14 days with the goal of securing appropriate treatment and reintegrating the inmate into the general population.

(f) that a hearing by a disciplinary committee or a hearings officer must be completed before an inmate is placed in disciplinary detention for a rule violation; and

(g) that an inmate held in disciplinary detention for a period exceeding 60 days must be provided the same program services and privileges as inmates in administrative segregation or protective custody. The administrator or the administrator's designee shall review and approve the services and privileges to be allowed under this subsection (1)(g).

(2) A new adult inmate placed directly into restrictive housing will receive written orientation materials and, if required, translations in the inmate's own language. When a literacy problem exists, a staff member may assist the inmate in understanding the material. Completion of orientation must be documented by a statement signed and dated by the inmate.

Section 5. Mental health status review. (1) When a housing or management unit exists for adult or youth inmates with mental health issues, a mental disorder, or mental illness, procedures adopted pursuant to [section 3(7)] must provide for placements, assessments, specialized treatments, program services, and scheduled case reviews by qualified mental health professionals in accordance with policies established by the department.

(2) Upon notification that an inmate has been placed in restrictive housing, a qualified health care professional will review the inmate's health record. If an existing medical, mental health, or dental need requires accommodation, custody staff must be notified. When reviewing the health records of an inmate with a mental disorder, health staff shall assess the risk of exacerbation of mental disorder and notify mental health staff. This review and notification must be documented in the inmate's health record.

(3) The procedures established pursuant to [section 3(7)] must provide that an inmate entering restrictive housing must be seen and assessed by a qualified mental health professional or health care professional, in accordance with the national commission on correctional health care standards. Each contact must be documented on the inmate's log, and the notation must contain, at a minimum, a status report and the date and time of the contact. Individual logs must be filed in the inmate's medical and mental health records.

(4) A qualified mental health professional shall complete a mental health appraisal within 72 hours of an inmate's placement in restrictive housing. The appraisal may include a mental health screening that has been completed by health care personnel at the time the inmate is placed in restrictive housing. If confinement continues beyond 30 days, a qualified mental health professional shall complete a behavioral health assessment at least every 14 days for an inmate with a diagnosed behavioral or mental health disorder and more frequently if clinically indicated. For an inmate without a behavioral health disorder, the assessment must be completed every 14 days and more frequently if clinically indicated. The behavioral health assessment must be conducted in a manner that ensures confidentiality.

(5) An inmate diagnosed with a serious mental disorder may not be placed in restrictive housing for more than 14 days unless a multidisciplinary service

team determines there is an immediate and present danger to others or to the safety of the institution. If an inmate with a serious mental disorder is placed in restrictive housing, the inmate must be provided with an active individualized treatment plan that includes weekly monitoring by mental health staff, treatment as necessary, and steps to facilitate the transition of the inmate back into the general population.

Section 6. Supervisory oversight. Procedures established pursuant to [section 3(7)] must:

(1) provide that an adult inmate in restrictive housing or protective custody must receive daily visits from the shift supervisor or supervisor in charge, daily visits from a qualified health care professional unless more frequent visits are indicated, and visits from members of the program staff on request;

(2) require that an adult inmate in restrictive housing is personally observed by a correctional officer at least every 30 to 60 minutes on an irregular schedule. An adult inmate who is violent or mentally disordered or who demonstrates unusual or bizarre behavior must receive more frequent observation. Suicidal offenders must be under continuing observation.

(3) govern the selection criteria, supervision, and rotation of staff who work directly with inmates in restrictive housing units on a regular and daily basis.

Section 7. Recordkeeping. (1) A facility with a restrictive housing unit shall comply with the general recordkeeping requirements provided in department policy.

(2) Procedures adopted pursuant to [section 3(7)] must require that staff operating restrictive housing units maintain permanent logs and records that adequately document the activities, programs, and visitation patterns of the unit and of individual inmates. Staff shall maintain records that include the following:

(a) all admissions and releases, including date of action, time of action, reason for admission or release, and authorizing official or committee;

(b) a record of visitors, including all official visits by staff members, medical staff visits, and the time, date, and signature of each visitor;

(c) notations of unusual behavior by an inmate or the inmates in the unit as a whole; and

(d) information from and observations by staff that are forwarded for staff action and observation during future shifts.

Section 8. Conditions of confinement. (1) (a) An inmate in restrictive housing must be provided with:

(i) prescribed medication;

(ii) other medically necessary treatment as prescribed by a qualified health care provider;

(iii) clothing that is not degrading or specialized clothing when reasons for its use are documented;

(iv) access to basic personal items for use in the inmate's cell unless there is imminent danger that the inmate or any other inmate will destroy the item or induce self-injury;

(v) the opportunity to shower and shave at least three times each week;

(vi) laundry, barbering, and hair care services; and

(vii) the opportunity to exchange clothing, bedding, and linen on the same basis as inmates in the general population.

(b) Exceptions to the requirements in subsection (1)(a) may be permitted if found necessary by a supervisor. Exceptions must be recorded in the inmate's log and justified in writing.

(2) A facility may provide alternative meal service to an inmate who uses food or food service equipment in a manner that is hazardous to self, staff, or

other inmates. Service may be provided on an individual basis based only on health or safety considerations and must meet basic nutritional requirements and occur only with the written approval of the administrator or chief health care authority. The food substitution period may not exceed 7 days.

(3) Procedures adopted pursuant to [section 3(7)] must provide that whenever an adult or youth inmate is deprived of any usually authorized item or activity, a report of the action must be filed in both the inmate's log and the inmate's case record and forwarded to the facility's chief of security.

Section 9. Programs, services, and access to legal and reading materials. (1) An inmate in a restrictive housing unit shall have:

(a) the opportunity to write and receive letters on the same basis as inmates in the general population;

(b) opportunities for visitation unless there are substantial reasons for withholding visitation privileges. If visitation privileges are withheld, the administrator shall approve the restriction.

(c) access to personal legal materials and available legal reference materials; and

(d) access to reading materials from the facility library.

(2) An inmate in administrative segregation or protective custody or an inmate housed in disciplinary detention must have access to programs and services that include but are not limited to the following:

(a) educational services;

(b) commissary services;

(c) library services;

(d) social services;

(e) counseling services;

(f) religious guidance; and

(g) recreational programs.

(3) The programs and services described in subsections (1) and (2) are not required to be identical to those provided in the facility's general population. However, there may not be major differences for any reasons other than danger to life, health, or safety.

(4) An inmate with a disability may not be denied a reasonable accommodation simply because the inmate is in restrictive housing or a similar condition, unless safety or security concerns render the accommodation unreasonable.

Section 10. Exercise outside of cell. (1) An adult inmate in restrictive housing or protective custody must be allowed a minimum of 1 hour of exercise each day outside of the inmate's cell, 5 days a week, unless security or safety considerations dictate otherwise.

(2) A youth inmate in protective custody must be allowed 1 hour of large muscle activity every 24 hours.

Section 11. Telephone privileges. (1) An adult inmate in restrictive housing for administrative segregation or protective custody or a youth in protective custody is allowed telephone privileges.

(2) Unless security or safety considerations dictate otherwise, an inmate in restrictive housing is allowed, at minimum, telephone privileges to access the judicial process, to call an attorney of record, and during family emergencies as determined by the administrator or the administrator's designee.

Section 12. Requirements for youth facilities. (1) Except as provided in subsection (2), a facility that houses youth inmates may not use restrictive housing.

(2) The administrator or the administrator's designee may order a youth to be placed in protective custody for temporary confinement not to exceed 24

hours when it is necessary to protect the youth or others. The action must be reviewed by the facility administrator within 4 hours regardless of weekends or holidays, or the next morning if the youth is placed in protective custody after 9 p.m.

(3) Procedures adopted pursuant to [section 3(7)] must provide special management for a youth inmate with serious behavior problems and for a youth who requires protective care.

(4) A youth facility shall develop individual program plans and provide appropriate services that may require youth inmates to be separated from the general population.

(5) A youth in protective custody must be allowed out of cell for more than 2 hours in a 24-hour period.

(6) A youth in protective custody must be observed by staff at least every 15 minutes.

(7) A youth in protective custody must be visited at least once each day by staff from administrative, clinical, social work, religious, or medical units.

Section 13. Step-down programs – release directly from restrictive housing. (1) A facility shall establish step-down programs and offer them to an inmate who has been in restrictive housing for more than 30 days to facilitate reintegration of the inmate into the general population or the community. Step-down programs must, at a minimum, include the following:

- (a) a prescreening evaluation;
- (b) monthly evaluations using a multidisciplinary approach to determine the inmate's compliance with program requirements;
- (c) subject to monthly evaluations, gradually increasing out-of-cell time, group interaction, education and programming opportunities, and privileges;
- (d) a step-down transition compliance review; and
- (e) a postscreening evaluation.

(2) (a) A facility shall attempt to ensure that an inmate is not released directly into the community after 30 days or more in restrictive housing.

(b) In the event that the release of an inmate directly from restrictive housing into the community is imminent, the facility shall document the justification and, unless the justification is an immediate court-ordered release, obtain approval from the department director or the director's designee.

(c) In addition to general release protocols, when an inmate is released directly into the community from more than 30 days of restrictive housing, at a minimum, the facility shall take the following steps, at a minimum, unless the justification is an immediate court-ordered release:

- (i) development of a release plan tailored to the specific needs of the inmate;
- (ii) notification of the inmate's release to state and local law enforcement;
- (iii) notification to the inmate of applicable community resources; and
- (iv) victim notification, if applicable.

Section 14. Appropriation. (1) (a) There is appropriated \$150,000 from the general fund to the department of corrections for the biennium beginning July 1, 2019, for the purpose of building a fence at the Montana state prison.

(b) The legislature intends that the appropriation in subsection (1)(a) be a one-time-only appropriation.

(2) (a) There is appropriated \$50,000 from the general fund to the department of corrections for the biennium beginning July 1, 2019, to implement data tracking related to the use of restrictive housing.

(b) The legislature intends that the appropriation in subsection (2)(a) be considered as part of the ongoing base for the next legislative session.

Section 15. Codification instruction. [Sections 1 through 13] are intended to be codified as an integral part of Title 53, chapter 30, and the provisions of Title 53, chapter 30, apply to [sections 1 through 13].

Section 16. Effective dates. (1) Except as provided in subsection (2), [this act] is effective January 1, 2020.

(2) [Section 14] and this section are effective July 1, 2019.

Approved May 10, 2019

CHAPTER NO. 483

[HB 2]

AN ACT APPROPRIATING MONEY TO VARIOUS STATE AGENCIES FOR THE BIENNIUM ENDING JUNE 30, 2021; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [This act] may be cited as “The General Appropriations Act of 2019”.

Section 2. First level expenditures. The agency and program appropriation tables in the legislative fiscal analyst narrative accompanying this bill, showing first level expenditures and funding for the 2021 biennium, are adopted as legislative intent.

Section 3. Severability. If any section, subsection, sentence, clause, or phrase of [this act] is for any reason held unconstitutional, the decision does not affect the validity of the remaining portions of [this act].

Section 4. Appropriation control. An appropriation item designated “Biennial” may be spent in either year of the biennium. An appropriation item designated “Restricted” may be used during the biennium only for the purpose designated by its title and as presented to the legislature or as restricted in this act. An appropriation item designated “One Time Only” or “OTO” may not be included in the present law base for the 2023 biennium. The office of budget and program planning shall establish a separate appropriation on the statewide accounting, budgeting, and human resource system for any item designated “Biennial”, “Restricted”, “One Time Only”, or “OTO”. The office of budget and program planning shall establish at least one appropriation on the statewide accounting, budgeting, and human resource system for any appropriation that appears as a separate line item in [this act].

Section 5. Appropriation Control. The office of budget and program planning shall establish a separate appropriation on the statewide accounting, budgeting, and human resource system for the funding included in each executive branch agency’s budget to pay fixed cost allocations to the state information technology services division of the department of administration. The appropriations must be designated as restricted.

Section 6. Program definition. As used in [this act], “program” has the same meaning as defined in 17-7-102, is consistent with the management and accountability structure established on the statewide accounting, budgeting, and human resource system, and is identified as a major subdivision of an agency ordinarily numbered with an Arabic numeral.

Section 7. Personal services funding – 2023 biennium. (1) Except as provided in subsection (2), present law and new proposal funding budget requests for the 2021 biennium submitted under Title 17, chapter 7, part 1, by each executive, judicial, and legislative branch agency must include funding of first level personal services separate from funding of other expenditures.

The funding of first level personal services by fund or equivalent for each fiscal year must be shown at the fourth reporting level or equivalent in the budget request for the 2023 biennium submitted by November 1 to the legislative fiscal analyst by the office of budget and program planning.

(2) The provisions of subsection (1) do not apply to the Montana university system.

Section 8. Legislative Intent. It is the intent of the legislature that the office of budget and program planning review rent and lease agreements funded by appropriations in [this act] for reasonableness and review prior to completion of the rent or lease agreement.

Section 9. Totals not appropriations. The totals shown in [this act] are for informational purposes only and are not appropriations.

Section 10. Effective date. [This act] is effective July 1, 2019.

Section 11. Appropriations. The following money is appropriated for the respective fiscal years:

General Fund	State Special Revenue	Fiscal 2020			Total	General Fund	State Special Revenue	Fiscal 2021			Total
		Federal Special Revenue	Proprietary	Other				Federal Special Revenue	Proprietary	Other	
A. GENERAL GOVERNMENT											
LEGISLATIVE BRANCH (11040)											
1. Legislative Services Division (20)											
9,330,679	526,393	0	0	0	9,857,072	9,406,905	197,395	0	0	0	9,604,300
a. Chamber Design (Biennial/OTO)											
300,000	0	0	0	0	300,000	0	0	0	0	0	0
b. Bill Draft Editor Projects (Biennial/OTO)											
500,000	0	0	0	0	500,000	0	0	0	0	0	0
c. Chamber Project (Biennial/OTO)											
600,000	0	0	0	0	600,000	600,000	0	0	0	0	600,000
d. Legislator Portal Project (Biennial/OTO)											
0	0	0	0	0	0	300,000	0	0	0	0	300,000
e. Digital Vote Boards (Biennial/OTO)											
700,000	0	0	0	0	700,000	300,000	0	0	0	0	300,000
f. Replacement of House Chairs and Senate Furniture (Restricted/Biennial/OTO)											
200,000	0	0	0	0	200,000	0	0	0	0	0	0
g. Constituent Services Account (Restricted)											
290,925	0	0	0	0	290,925	0	0	0	0	0	0
2. Legislative Committees & Activities (21)											
903,846	0	0	0	0	903,846	748,802	0	0	0	0	748,802
a. Council of State Governments Conference (OTO)											
0	300,000	0	0	0	300,000	0	0	0	0	0	0
3. Fiscal Analysis & Review (27)											
2,088,288	0	0	0	0	2,088,288	2,111,323	0	0	0	0	2,111,323
4. Audit & Examination (28)											
2,658,311	1,983,243	0	0	0	4,641,554	2,660,495	1,933,506	0	0	0	4,594,001

	<u>Fiscal 2020</u>				<u>Fiscal 2021</u>			
	General Fund	State Special Revenue	Federal Special Revenue	<u>Total</u>	General Fund	State Special Revenue	Federal Special Revenue	<u>Total</u>
a. Present Law Adjustment - IT Training (OTO)								
15,891	4,109	0	0	20,000	12,977	7,023	0	20,000
Total								
17,587,940	2,813,745	0	0	20,401,685	16,140,502	2,137,924	0	18,278,426
All appropriations for the Legislative Branch are biennial.								
IF HB 106 is not passed and approved, the appropriation for Constituent Services Account is void.								
CONSUMER COUNSEL (11120)								
1. Administration Program (01)								
0	1,502,084	0	0	1,502,084	0	1,501,478	0	1,501,478
a. Caseload Contingency (Biennial)								
0	150,000	0	0	150,000	0	150,000	0	150,000
Total								
0	1,652,084	0	0	1,652,084	0	1,651,478	0	1,651,478
GOVERNOR'S OFFICE (31010)								
1. Executive Office Program (01)								
3,052,703	0	0	0	3,052,703	3,050,287	0	0	3,050,287
2. Executive Residence (02)								
172,768	0	0	0	172,768	173,618	0	0	173,618
3. Air Transportation Program (03)								
306,539	0	0	0	306,539	307,869	0	0	307,869
4. Office of Budget and Program Planning (04)								
2,388,782	0	0	0	2,388,782	2,386,795	0	0	2,386,795
a. Legislative Audit (Restricted/Biennial)								
63,567	0	0	0	63,567	0	0	0	0
5. Office of Indian Affairs (05)								
211,448	0	0	0	211,448	211,224	0	0	211,224

Fiscal 2020						Fiscal 2021					
General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
6. Lt Governor's Office (12)											
351,610	0	0	0	0	351,610	351,563	0	0	0	0	351,563
7. Mental Disability Board of Visitors / Mental Health Ombudsman (20)											
513,945	0	0	0	0	513,945	513,767	0	0	0	513,767	
Total											
7,061,362	0	0	0	0	7,061,362	6,995,123	0	0	0	0	6,995,123
COMMISSIONER OF POLITICAL PRACTICES (32020)											
1. Commissioner of Political Practices (01)											
750,529	0	0	0	0	750,529	750,932	0	0	0	0	750,932
a. Legislative Audit (Restricted/Biennial)											
13,111	0	0	0	0	13,111	0	0	0	0	0	0
b. Legal Counsel (OTO)											
99,785	0	0	0	0	99,785	99,526	0	0	0	0	99,526
c. Personal Services Legislative Referendum 129 (OTO)											
0	0	0	0	0	0	25,184	0	0	0	0	25,184
Total											
863,425	0	0	0	0	863,425	875,642	0	0	0	0	875,642
STATE AUDITOR'S OFFICE (34010)											
1. Central Management (01)											
0	2,114,875	0	0	0	2,114,875	0	2,114,115	0	0	0	2,114,115
a. Legislative Audit (Restricted/Biennial)											
0	9,978	0	0	0	9,978	0	0	0	0	0	0
b. Agency Retirement Payouts (Restricted/Biennial/OTO)											
0	20,000	0	0	0	20,000	0	0	0	0	0	0
2. Insurance (03)											
0	5,126,996	0	0	0	5,126,996	0	5,223,822	0	0	0	5,223,822

	<u>Fiscal 2020</u>			<u>Fiscal 2021</u>		
	General Fund	State Special Revenue	Total	General Fund	State Special Revenue	Total
b. Termination Payout (Restricted/OTO)	0	0	60,000	0	0	60,000
3. Citizen Services & Resource Management Division (05)	8,514,813	214,889	8,771,556	8,513,727	214,939	8,770,530
4. Business & Income Taxes Division (07)	10,633,277	634,240	11,542,587	10,621,717	634,222	11,530,846
5. Property Assessment Division (08)	22,038,483	14,287	22,052,770	22,035,866	14,276	22,050,142
Total	55,458,744	989,944	60,267,354	55,255,384	989,954	60,069,531
Alcoholic Beverage Control Division proprietary funds necessary to maintain adequate inventories, pay freight charges, and transfer profits and taxes to appropriate accounts are appropriated from the liquor enterprise fund to the department in the amounts not to exceed \$154.5 million in FY 2020 and \$154.5 million in FY 2021.						

DEPARTMENT OF ADMINISTRATION (61010)

1. Director's Office (01)	436,111	0	12,707	0	0	448,818	436,604	0	12,707	0	0	449,311
a. Legislative Audit (Restricted/Biennial)	70,361	0	0	0	0	70,361	0	0	0	0	0	0
2. Governor-Elect Program (02)	0	0	0	0	0	0	0	0	0	0	0	0
a. Governor-Elect Appropriation (OTO)	0	0	0	0	0	0	75,000	0	0	0	0	75,000
3. State Financial Services Division (03)	2,866,734	182,554	1,427	55,373	0	3,106,088	2,866,957	183,097	1,427	55,373	0	3,106,854
a. Legislative Audit (Restricted/Biennial)	0	311	0	0	0	311	0	0	0	0	0	0

	<u>Fiscal 2020</u>			<u>Fiscal 2021</u>		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
				<u>Total</u>	<u>Proprietary</u>	<u>Other</u>
						<u>Total</u>
threats; governance, risk, and compliance software; enterprise risk assessment; digital forensics lab; source code repository; security orchestration, automation and response; and outsourced professional services.						
The State Information Technology Services Division shall report to the legislative finance committee quarterly on the Montana Cybersecurity Enhancement Project.						
It is the intent of the legislature that funding for the Montana Cybersecurity Enhancement Project be moved to the State Information Technology Services Division's proprietary rates in the 2023 biennium if the project is successful.						
DEPARTMENT OF COMMERCE (65010)						
1. Office of Tourism and Business Development (51)						
1,907,136	2,298,716	836,266	0	0	5,042,118	1,914,525
a. Legislative Audit (Restricted/Biennial)						
3,366	42,475	1,212	0	0	47,053	0
b. Primary Business Sector Training (OTO)						
600,000	81,876	0	0	0	681,876	600,000
c. Indian Country Economic Development (OTO)						
875,000	0	0	0	0	875,000	875,000
d. Montana Indian Language Preservation (Biennial/OTO)						
750,000	0	0	0	0	750,000	750,000
e. Census 2020 Marketing (Biennial/OTO)						
100,000	0	0	0	0	100,000	0
f. Small Business Innovation Research/Small Business Technology Transfers (Restricted/Biennial)						
375,000	0	0	0	0	375,000	0
g. Montana Manufacturing Extension Center (Restricted)						
100,000	0	0	0	0	100,000	0
2. Community Development Division (60)						
916,555	982,344	19,639,506	0	0	21,538,405	916,272
a. Legislative Audit (Restricted/Biennial)						
3,575	2,719	7,111	0	0	13,405	0

	<u>Fiscal 2020</u>			<u>Fiscal 2021</u>		
	General Fund	State Special Revenue	<u>Total</u>	General Fund	State Special Revenue	<u>Total</u>
b. Coal Board Grants (Biennial)	0	1,825,000	0	0	1,825,000	0
c. Hard Rock Mining Reserve (Restricted)	0	100,000	0	0	100,000	0
3. Housing Division (74)	0	0	0	0	0	0
4. Board of Horseracing (78)	0	199,372	0	0	199,297	0
5. Director's Office (81)	0	0	550,000	0	0	600,000
Total	5,630,632	5,532,502	21,034,095	5,530,797	5,513,210	21,092,727
Grants received from Indian Country Economic Development, Montana Indian Language Preservation, and Primary Business Sector Training may be used as matching funds for federal or private fund sources.						

DEPARTMENT OF LABOR AND INDUSTRY (66020)

1. Workforce Services Division (01)	0	0	0	0	0	0
a. Montana Career Information System Funding (OTO)	0	11,575,622	16,445,229	0	11,578,289	16,453,049
b. HELP Act Workforce Development (Restricted)	0	85,000	0	0	85,000	0
2. Unemployment Insurance Division (02)	0	888,531	0	0	888,531	0
3. Commissioner's Office / Central Services Division (03)	0	5,298,372	11,226,532	0	5,344,292	11,224,345
4. Employment Relations Division (04)	307,317	377,562	569,949	308,575	378,313	572,007
Total	1,516,412	12,429,306	1,084,031	1,514,797	12,437,134	1,084,895

	0	0	15,029,749	0	0	15,036,826
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	Fiscal 2020					Fiscal 2021						
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
a. Legislative Audit (Restricted/Biennial)												
10,048	0	42,480	0	0	0	52,528	0	0	0	0	0	0
6. Air National Guard Program (13)												
428,377	0	5,242,765	0	0	0	5,671,142	427,860	0	5,266,906	0	0	5,694,766
a. Legislative Audit (Restricted/Biennial)												
469	0	4,897	0	0	0	5,366	0	0	0	0	0	0
7. Disaster and Emergency Services (21)												
1,352,051	206,680	15,970,904	0	0	0	17,529,635	1,352,634	206,680	15,971,488	0	0	17,530,802
a. Legislative Audit (Restricted/Biennial)												
4,919	0	4,918	0	0	0	9,837	0	0	0	0	0	0
8. Veterans' Affairs Program (31)												
1,332,706	899,707	0	0	0	0	2,232,413	1,332,149	901,960	0	0	0	2,234,109
a. Legislative Audit (Restricted/Biennial)												
140	2,543	0	0	0	0	2,683	0	0	0	0	0	0
Total												
7,031,948	1,109,350	43,208,233	0	0	0	51,349,531	6,997,914	1,109,060	43,167,728	0	0	51,274,702
TOTAL SECTION A												
104,783,157	78,665,256	97,693,475	8,911,610	0	0	290,053,498	102,950,781	77,598,609	97,719,756	8,783,749	0	287,052,895

	Fiscal 2020			Fiscal 2021		
	General Fund	State Special Revenue	Total	General Fund	State Special Revenue	Total
B. DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES						
DEPARTMENT OF PUBLIC HEALTH & HUMAN SERVICES (69010)						
1. Disability Employment & Transitions (01)						
6,018,809	1,309,926	21,824,270	0	0	29,153,005	6,055,266
2. Human & Community Services Division (02)						
33,331,909	2,550,217	295,183,498	0	0	331,065,624	33,485,647
3. Child and Family Services Division (03)						
59,266,154	1,879,255	39,474,278	0	0	100,619,687	62,169,595
4. Director's Office (04)						
3,624,167	1,158,792	3,930,115	0	0	8,713,074	3,621,608
5. Child Support Enforcement Division (05)						
3,199,006	363,205	7,660,656	0	0	11,222,867	3,199,083
6. Business and Financial Services Division (06)						
4,311,710	909,077	6,647,594	0	0	11,868,381	4,277,793
a. Legislative Audit (Restricted/Biennial)						
168,260	22,441	222,488	0	0	413,189	0
7. Public Health & Safety Division (07)						
3,874,668	16,699,587	41,625,110	0	0	62,199,365	3,873,790
8. Quality Assurance Division (08)						
2,560,497	2,320,439	6,369,167	0	0	11,250,103	2,561,176
9. Technology Services Division (09)						
12,810,810	1,491,379	17,079,843	0	0	31,382,032	12,811,875
10. Developmental Services Division (10)						
88,087,786	7,046,482	203,448,118	0	0	298,582,386	91,996,092
11. Health Resources Division (11)						
172,071,588	62,463,999	469,637,176	0	0	704,172,763	184,735,578
a. CHIP Federal Medical Assistance Percentage Adjustment (Restricted)						
0	10,427,378	0	0	0	10,427,378	11,000,000

	Fiscal 2020			Fiscal 2021		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
b. Tobacco Health and Medicaid Initiative Fund Support (Restricted)	6,000,000	0	0	6,200,000	0	0
c. Tobacco Health and Medicaid Initiative Additional Fund Support (Restricted)	1,741,105	0	0	2,194,126	0	0
d. Montana Health Information Exchange (Restricted)	200,000	0	0	400,000	0	0
e. Physician Reimbursement	13,106	0	0	43,334	0	0
12. Medicaid & Health Services Management (12)	2,460,827	201,485	16,245,777	2,461,731	202,631	16,245,867
13. Management and Fair Hearings (16)	1,195,649	76,701	1,702,733	1,195,182	76,678	1,702,054
14. Senior & Long-Term Care (22)	33,836,377	20,317,292	83,729,364	36,212,434	23,173,777	90,787,884
a. Senior & Long-Term Care Division Nursing Home (Restricted)	35,959,403	24,677,856	118,920,033	36,820,578	25,265,735	121,958,604
15. Addictive and Mental Disorders Division (33)	78,737,980	20,085,539	50,192,791	80,306,012	20,400,171	53,167,478
a. Behavioral Health Peer Support Services (Biennial/OTO)	0	1,000,000	1,854,696	0	1,000,000	1,839,296
b. Mobile Crisis Units (Biennial/OTO)	0	250,000	0	0	250,000	0
Total	549,469,811	175,251,050	1,385,747,707	585,620,900	179,604,463	1,432,934,469

CHIP Federal Medicaid Assistance Percentage state special revenue funds are from the account established in 17-6-606 and must be expended before the general fund appropriation for CHIP State Match pursuant to 17-2-108.

Senior & Long-Term Care Division Nursing Home appropriation for Medicaid nursing home services is restricted to spending on Medicaid nursing home services or the Big Sky Waiver within the Senior and Long-Term Care Division.

	Fiscal 2020						Fiscal 2021					
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
If Medicaid expansion is not renewed, the DPHHS appropriation for the Health Resources Division in HB 2 is increased by \$28,410,375 general fund and \$55,428,911 federal funds in FY 2020 and \$28,519,386 general fund and \$55,887,606 federal funds in FY 2021.												
The Disability Employment & Transitions Division is appropriated \$775,000 of state special revenue from the Montana Telecommunications Access Program (MTAP) during each year of the 2021 biennium to cover a contingent FCC mandate, which would require states to provide both Video and Internet Protocol relay services for people with severe hearing, mobility, or speech impairments.												
If a companion bill amending 53-19-310 to allow for legislative transfers is not passed and approved, the appropriation for the Addictive and Mental Disorders Division in HB 2 is reduced by \$550,000 state special revenue and \$1,020,083 federal funds in FY 2020 and \$800,000 state special revenue and \$1,483,757 federal funds in FY 2021 and the appropriation for the Disability Employment and Transitions Division is reduced by \$400,000 state special revenue in FY 2020 and \$400,000 state special revenue in FY 2021.												
If a companion bill transferring \$1,068,693 from the Older Montanans Trust Fund to a state special revenue account defined in that companion bill is not passed and approved, the appropriation for the Senior and Long-Term Care Division is reduced by \$320,608 state special revenue funds and \$594,630 federal special revenue funds in FY 2020 and \$748,085 state special revenue funds and \$1,375,950 federal special revenue funds in FY 2021.												
The budget for the Child and Family Services Division is restricted to use in that division.												
Senior & Long Term Care - County Nursing Home Intergovernmental Transfer (IGT) may be used only to make one-time payments to nursing homes based on the number of Medicaid services provided. State special revenue in County Nursing Home IGT may be expended only after the office of budget and program planning has certified that the department has collected the amount that is necessary to make one-time payments to nursing homes based on the number of Medicaid services provided and to fund the base budget in the nursing facility program and the community services program at the level of \$564,785 from the counties participating in the intergovernmental transfer program for the nursing facilities.												
If a bill amending 53-6-125 to allow for a reduction of the physician reimbursement calculated pursuant to that section for the biennium beginning July 1, 2019, is not passed and approved, Montana Health Information Exchange is void and Physician Reimbursement is increased by 200,000 in FY 2020 and increased by 400,000 in FY 2021.												
Both Behavioral Health Peer Support Services and Mobile Crisis Units are contingent upon passage and approval of an act that amends 50-46-345 to allow for transfers for peer support services or mobile crisis units from that account and provides transfers for one or more of those items. If SB 30 is passed and approved and provides funding for peer support services, Peer Support Services is void. If HB 660 is passed and approved and provides funding for mobile crisis units, Mobile Crisis Units is void.												
TOTAL SECTION B	\$49,469,811	175,251,050	1,385,747,707	0	0	2,110,468,568	585,620,900	179,604,463	1,432,934,469	0	0	2,198,159,833

	General Fund	State Special Revenue	Fiscal 2020			Total	General Fund	State Special Revenue	Fiscal 2021			Total
			Federal Special Revenue	Proprietary	Other				Federal Special Revenue	Proprietary	Other	
C. NATURAL RESOURCES & TRANSPORTATION												
DEPARTMENT OF FISH, WILDLIFE, AND PARKS (52010)												
1.	Fisheries Division (03)											
0	9,999,932	10,852,340	0	0	0	20,852,272	0	10,012,761	10,856,699	0	0	20,869,460
a.	Equipment - (Biennial/OTO)											
0	250,000	0	0	0	0	250,000	0	250,000	0	0	0	250,000
b.	Fisheries FTE (Restricted)											
0	138,313	0	0	0	0	138,313	0	135,312	0	0	0	135,312
2.	Enforcement Division (04)											
0	11,147,978	1,301,453	0	0	0	12,449,431	0	11,171,444	1,295,502	0	0	12,466,946
a.	Enforcement Boat Replacement (Biennial/OTO)											
0	500,000	500,000	0	0	0	1,000,000	0	0	0	0	0	0
b.	Enforcement Equipment Replacement (Biennial/OTO)											
0	330,000	0	0	0	0	330,000	0	0	0	0	0	0
3.	Wildlife Division (05)											
0	15,010,586	9,755,659	0	0	0	24,766,245	0	15,017,202	9,768,952	0	0	24,786,154
a.	Wildlife Management Area Equipment (Biennial/OTO)											
0	101,625	304,875	0	0	0	406,500	0	0	0	0	0	0
b.	Restore Bison Containment Program (OTO)											
0	57,859	0	0	0	0	57,859	0	57,763	0	0	0	57,763
c.	Wildlife Wolf Program (OTO)											
0	205,656	24,502	0	0	0	230,158	0	205,043	24,576	0	0	229,619
4.	Parks Division (06)											
0	7,950,951	459,887	0	0	0	8,410,838	0	7,956,831	460,048	0	0	8,416,879
a.	Parks Equipment (Biennial/OTO)											
0	300,000	0	0	0	0	300,000	0	0	0	0	0	0
b.	Parks Snomowble Groomers (Biennial)											
0	210,000	0	0	0	0	210,000	0	210,000	0	0	0	210,000

	<u>Fiscal 2020</u>			<u>Fiscal 2021</u>		
	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>
5. Communication and Education Division (08)						
0	3,062,753	982,597	0	4,045,350	0	3,059,163
6. Administration (09)						
0	14,491,598	402,319	0	14,893,917	0	14,573,034
a. Legislative Audit (Restricted/Biennial)						
0	111,243	0	0	111,243	0	0
7. Department Management (12)						
0	8,479,923	244,903	0	8,724,826	0	8,481,950
a. Public Access Land Act (Restricted/Biennial/OFO)						
0	500,000	0	0	500,000	0	0
Total	0	72,848,417	24,828,535	0	97,676,952	0

The department may use federal funds for the Enforcement Division in excess of the federal special revenue in the Enforcement Division appropriation up to an additional 50% of that appropriation. If federal funds are used by the department for the Enforcement Division in excess of the federal special revenue in the Enforcement Division appropriation, the state special revenue appropriation must be reduced and federal special revenue appropriation increased by the amount of federal funds used.

If SB 341 is not passed and approved, the state special revenue appropriation for Public Access Land Act is void.

DEPARTMENT OF ENVIRONMENTAL QUALITY (53010)

1. Centralized Services Division (10)						
787,481	3,249,434	728,506	0	4,765,421	787,297	3,249,874
2. Water Quality Division (20)						
2,570,053	7,051,153	8,100,036	0	17,721,242	2,571,381	7,051,850
3. Waste Management & Remediation Division (40)						
332,942	11,694,017	10,212,723	0	22,239,682	332,942	11,691,443
a. Orphan Share Expanded Use (Restricted/Biennial)						
0	250,000	0	0	250,000	0	250,000

	<u>Fiscal 2020</u>			<u>Fiscal 2021</u>		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
b. Petroleum Tank Cleanup (Restricted/OTO)	0	500,000	0	0	500,000	0
4. Air, Energy & Mining Division (50)	1,712,413	14,206,277	4,663,765	1,709,590	14,227,374	4,651,617
5. Petroleum Tank Release Compensation Board (90)	0	641,363	0	0	641,052	0
Total	5,402,889	37,592,244	23,705,030	5,401,210	37,611,593	23,692,815

The department is appropriated up to \$1,000,000 of the funds recovered under the Petroleum Tank Release Compensation Board subrogation program in the 2021 biennium for the purpose of paying contract expenses related to the recovery of funds.

If the Carpenter/Snow Creek site is approved for federal superfund funding by the Environmental Protection Agency, the department is appropriated \$2.2 million in state special revenue from the CERCLA bond proceeds account.

The Water Quality Division is authorized to decrease federal special revenue and increase state special revenue in the drinking water and/or water pollution control revolving loan programs by a like amount within the administration account, when the amount of federal capitalization funds have been expended or when federal funds and bond proceeds will be used for other program purposes.

DEPARTMENT OF TRANSPORTATION (54010)

1. General Operations Program (01)	0	31,361,583	1,775,056	0	33,136,639	0	31,347,301	1,781,358	0	0	33,128,659
a. Legislative Audit (Restricted/Biennial)	0	194,675	0	0	0	0	0	0	0	0	0
2. Construction Program (02)	0	60,298,306	384,665,792	0	444,964,098	0	60,351,484	384,672,162	0	0	445,023,646
a. Bridge & Road Safety & Accountability Act Funding	0	12,800,000	0	0	12,800,000	0	12,800,000	0	0	0	12,800,000
3. Maintenance Program (03)	0	129,760,071	8,821,378	0	138,581,449	0	129,922,287	8,841,644	0	0	138,763,931

	<u>Fiscal 2020</u>				<u>Fiscal 2021</u>			
	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	<u>Proprietary Other</u>	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	<u>Proprietary Other</u>
a. Restore Winter Maintenance (Restricted)	0	2,000,000	0	0	0	2,000,000	0	0
4. Motor Carrier Services Division (22)	0	9,523,065	3,038,853	0	0	9,518,264	3,037,771	0
5. Aeronautics Program (40)	0	1,919,115	195,446	0	0	1,919,052	195,121	0
a. Cessna 206 Engine Rebuild (OTO)	0	110,000	0	0	0	0	0	0
b. Precision Approach Path Indicator (OTO)	0	0	0	0	0	0	275,000	0
c. Lincoln Airport Federally Supported Projects (OTO)	0	35,000	315,000	0	0	15,000	135,000	0
d. Aeronautical Charts (OTO)	0	0	0	0	0	20,000	0	0
6. Rail Transit and Planning Program (50)	0	8,329,408	27,962,720	0	0	8,587,663	28,586,461	0
Total	0	256,331,223	426,774,245	0	0	683,105,468	427,524,517	0

The department may adjust appropriations between state special revenue and federal special revenue funds if the total state special revenue authority by program is not increased by more than 10% of the total appropriations established by the legislature.

All appropriations in the department are biennial.

The state motor pool shall grant up to two surplus vehicles per year for courtesy cars to municipal airports as defined in 67-10-903.

DEPARTMENT OF LIVESTOCK (56030)

1. Centralized Services Division (01)	111,712	2,103,161	0	0	2,214,873	2,105,860	0	0
a. Legislative Audit (Restricted/Biennial)	0	47,676	0	0	47,676	0	0	0

	Fiscal 2020					Total	Fiscal 2021					
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other		General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	
2. Animal Health Division (04)												
2,751,065	2,045,628	1,865,909	0	0	6,662,602	2,750,519	2,042,590	1,866,883	0	0	6,659,992	
a. Designated Surveillance Area Expansion (Restricted/OTO)												
100,000	0	0	0	0	100,000	150,000	0	0	0	0	150,000	
b. Montana Veterinary Diagnostic Laboratory Network Upgrade (OTO)												
0	40,000	0	0	0	40,000	0	5,000	0	0	0	5,000	
c. Vet Truck Purchase (OTO)												
0	25,000	0	0	0	25,000	0	0	0	0	0	0	
d. Lab Equipment (Restricted/OTO)												
0	159,572	0	0	0	159,572	0	30,000	0	0	0	30,000	
3. Brands Enforcement Division (06)												
0	4,126,043	0	0	0	4,126,043	0	4,126,503	0	0	0	4,126,503	
a. Law Enforcement Safety Equipment (OTO)												
0	7,446	0	0	0	7,446	0	9,450	0	0	0	9,450	
b. Brands Temp Workers (OTO)												
0	39,546	0	0	0	39,546	0	86,469	0	0	0	86,469	

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION (57060)

1. Director's Office (21)												
3,985,302	2,818,510	359,872	0	0	0	7,163,684	4,040,151	2,858,768	365,262	0	0	7,264,181
a. Legislative Audit (Restricted/Biennial)												
139,054	0	0	0	0	0	139,054	0	0	0	0	0	0
2. Oil & Gas Conservation Division (22)												
0	2,084,520	106,682	0	0	0	2,191,202	0	2,084,813	106,682	0	0	2,191,495
3. Conservation & Resource Development Division (23)												
1,706,745	9,278,573	289,044	0	0	0	11,274,362	1,707,805	9,332,230	289,044	0	0	11,329,079

	<u>Fiscal 2020</u>			<u>Total</u>	<u>Fiscal 2021</u>			<u>Total</u>
	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>		<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	
a. World Mining Museum (Biennial/OTO)	0	150,000	0	150,000	0	0	0	0
b. Flathead Basin Commission Operations (Restricted/OTO)	0	20,000	0	20,000	0	20,000	0	20,000
4. Water Resources Division (24)								
10,507,101	7,711,236	276,797	0	18,495,134	10,530,033	7,715,249	276,711	18,521,993
a. MT Drought Mitigation, Response & Recovery (OTO)	50,000	0	0	50,000	50,000	0	0	50,000
b. External Engineering Review - Dam Designs (OTO)	20,000	0	0	20,000	20,000	0	0	20,000
c. State Water Projects Planning Document (OTO)	0	0	0	0	0	125,000	0	125,000
5. Forestry & Trust Lands Divisions (35)								
13,617,856	18,769,185	1,874,796	0	34,261,837	13,625,482	18,777,178	2,374,796	34,777,456
a. Good Neighbor Authority Expansion (OTO)	883,000	0	0	883,000	883,000	0	0	883,000
b. Prescribed Burn Pilot Project (Biennial/OTO)	0	50,000	0	50,000	0	0	0	0
Total	30,909,058	40,882,024	2,907,191	74,698,273	30,856,471	40,913,238	3,412,495	75,182,204

The department is authorized to decrease federal special revenue in the pollution control and/or drinking water revolving fund loan programs and increase state special revenue by a like amount within administration accounts when the amount of federal EPA CAP grant funds allocated for administration of the grant have been expended or federal funds and bond proceeds will be used for other program purposes as authorized in law providing for the distribution of funds.

During the 2021 biennium, up to \$600,000 from the loan loss reserve account of the private loan program established in 85-1-603 is appropriated to the department for the purchase of prior liens on property held as loan security as provided in 85-1-615.

During the 2021 biennium, up to \$1 million of funds currently in or to be deposited in the Broadwater replacement and renewal account is appropriated to the department for repairing or replacing equipment at the Broadwater hydropower facility.

	Fiscal 2020				Fiscal 2021					
	General Fund	State Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Proprietary	Other	Total
D. JUDICIAL BRANCH, LAW ENFORCEMENT, AND JUSTICE										
JUDICIAL BRANCH (21100)										
1. Supreme Court Operations (01)										
16,365,292	490,253	101,272	0	0	16,956,817	16,523,159	490,253	101,216	0	17,114,628
a. Legislative Audit (Restricted/Biennial)										
51,649	0	0	0	0	51,649	0	0	0	0	0
b. Pretrial Program (OTO)										
0	776,091	0	0	0	776,091	0	776,091	0	0	776,091
c. Youth Parole (HB 111)										
572,879	21,224	0	0	0	594,103	572,879	21,224	0	0	594,103
2. Law Library (03)										
852,913	0	0	0	0	852,913	853,253	0	0	0	853,253
3. District Court Operations (04)										
30,527,466	785,851	0	0	0	31,313,317	30,524,989	751,426	0	0	31,276,415
4. Water Courts Supervision (05)										
953,038	1,373,601	0	0	0	2,326,639	952,519	1,373,601	0	0	2,326,120
5. Clerk of Court (06)										
575,055	0	0	0	0	575,055	574,658	0	0	0	574,658

Pretrial Program shall report on the number of program participants and related costs to the law and justice interim committee annually in September of each year.

If HB 111 is not passed and approved, then Youth Parole is void.

If SB 26 is not passed and approved, Supreme Court Operations are increased by \$51,245 in general fund in FY 2020 and \$51,245 in general fund in FY 2021.

DEPARTMENT OF JUSTICE (41100)

1. Legal Services Division (01)										
7,553,110	1,427,458	763,150	0	0	9,743,718	7,553,059	1,427,067	763,044	0	9,743,170

	Fiscal 2020					Fiscal 2021						
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
a. SB 26 Witness Expenses												
51,245	0	0	0	0	0	51,245	51,245	0	0	0	0	51,245
2. Montana Highway Patrol (03)												
0	38,897,578	0	0	0	0	38,897,578	0	38,799,532	0	0	0	38,799,532
3. Justice Information Technology Services Division (04)												
4,873,690	702,839	2,635	14,768	0	0	5,593,932	4,876,800	570,150	2,635	14,768	0	5,464,353
4. Division of Criminal Investigation (05)												
7,376,777	5,815,651	660,177	0	0	0	13,852,605	7,378,445	5,815,954	660,246	0	0	13,854,645
a. Increase Criminal Records & Identification Services/Criminal Justice Information Network (OTO)												
0	815,000	0	0	0	0	815,000	0	65,000	0	0	0	65,000
5. Gambling Control Division (07)												
0	3,296,392	0	1,346,411	0	0	4,642,803	0	3,292,524	0	1,344,830	0	4,637,354
6. Forensic Science Division (08)												
4,991,617	1,444,243	0	0	0	0	6,435,860	4,993,239	1,444,243	0	0	0	6,437,482
a. Medical Examiner Full-Time (OTO)												
0	260,954	0	0	0	0	260,954	0	258,709	0	0	0	258,709
7. Motor Vehicle Division (09)												
9,262,966	14,570,288	0	591,655	0	0	24,424,909	9,268,345	14,570,170	0	591,655	0	24,430,170
8. Central Services Division (10)												
1,323,594	603,689	0	36,070	0	0	1,963,353	1,325,391	604,817	0	36,134	0	1,966,342
a. Legislative Audit (Restricted/Biennial)												
91,378	0	0	0	0	0	91,378	0	0	0	0	0	0
9. Public Safety Officers Standards and Training (19)												
0	0	0	0	0	0	0	0	0	0	0	0	0
Total												
35,524,377	67,834,092	1,425,962	1,988,904	0	0	106,773,335	35,446,524	66,848,166	1,425,925	1,987,387	0	105,708,002

	<u>Fiscal 2020</u>				<u>Fiscal 2021</u>			
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary Other	Total	General Fund	State Special Revenue	Federal Special Revenue
It is the intent of the legislature that the department of justice eliminate all highway state special revenue nonrestricted account funding from its base budget in the 2023 biennium in the Justice Information Technology Services Division, Division of Criminal Investigation, Forensic Science Division, and Central Services Division.								
Gambling Control Division shall report to the legislative finance committee annually in September as to the solvency of the gambling license fee account.								
SB 26 Witness Expenses is contingent on passage and approval of SB 26.								
PUBLIC SERVICE COMMISSION (42010)								
1. Public Service Commission (01)								
a. Legislative Audit (Restricted/Biennial)	0	3,229,845	273,336	0	0	3,503,181	0	3,230,782
b. Consulting Contingency (Restricted/OTO)	0	23,838	0	0	0	23,838	0	0
c. Elected Official Salary Adjustment	0	100,000	0	0	0	100,000	0	100,000
d. Attorney	0	542,649	0	0	0	542,649	0	543,077
Total	0	4,010,789	273,336	0	0	4,284,125	0	3,988,013

Consulting Contingency may be used only for litigation expenses provided through contracted services.

If LC 1934 is not passed and approved, Elected Official Salary Adjustment is increased by \$159,802 in state special revenue in FY 2020 and \$159,946 in FY 2021.

If LC 1934 is not passed and approved, Attorney is void.

OFFICE OF STATE PUBLIC DEFENDER (61080)

1. Public Defender Division (01)								
a. Local Government Contribution	22,162,804	0	0	0	0	22,162,804	21,973,862	0
	0	0	0	0	0	0	759,286	0

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	Fiscal 2020				Fiscal 2021			
	General Fund	State Special Revenue	Federal Special Revenue	Total	General Fund	State Special Revenue	Federal Special Revenue	Total
b. Death Penalty Cases (OTO)								
234,170	0	0	0	234,170	231,378	0	0	231,378
2. Appellate Defender Division (02)								
2,381,852	0	0	0	2,381,852	2,404,100	0	0	2,404,100
3. Conflict Coordinator Division (03)								
8,923,930	0	0	0	8,923,930	8,960,478	0	0	8,960,478
4. Central Services Division (04)								
3,186,417	0	0	0	3,186,417	3,195,505	0	0	3,195,505
a. Legislative Audit (Restricted/Biennial)								
61,581	0	0	0	61,581	0	0	0	0
Total								
36,950,754	0	0	0	36,950,754	37,524,609	0	0	37,524,609
All appropriations for the Public Defender Division, Appellate Defender Division, Conflict Coordinator Division, and Central Services Division are biennial.								
DEPARTMENT OF CORRECTIONS (64010)								
1. Director's Office (01)								
14,370,548	461,819	0	113,403	14,945,770	13,483,669	461,819	0	14,058,891
a. Legislative Audit (Restricted/Biennial)								
127,135	0	0	0	127,135	0	0	0	0
b. Housing Funding (Restricted/Biennial)								
200,000	0	0	0	200,000	200,000	0	0	200,000
c. Director's Office Contingency (Restricted)								
0	0	0	0	0	1,000,000	0	0	1,000,000
d. Workload Study and Training (Restricted)								
256,509	0	0	0	256,509	256,509	0	0	256,509
e. Offender Management Information System Training Positions (Restricted)								
202,726	0	0	0	202,726	202,124	0	0	202,124

	Fiscal 2020				Total	Fiscal 2021				
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary Other		General Fund	State Special Revenue	Federal Special Revenue	Proprietary Other	Total
f. Bureau of Crime Control (Biennial)										
1,795,599	122,203	12,443,411	0	0	14,361,213	1,795,642	122,203	12,443,411	0	14,361,256
2. Probation and Parole Division (02)										
77,278,112	814,167	0	0	0	78,092,279	77,750,302	814,167	0	0	78,564,469
a. Probation and Parole Career Ladder (Restricted)										
0	300,000	0	0	0	300,000	0	300,000	0	0	300,000
b. Provider Rate Increases										
415,450	0	0	0	0	415,450	471,795	0	0	0	471,795
3. Secure Custody Facilities (03)										
83,556,940	648,018	0	0	0	84,204,958	83,463,104	640,142	0	0	84,103,246
a. Provider Rate Increases										
906,341	0	0	0	0	906,341	1,168,350	0	0	0	1,168,350
b. Jail Hold Rates										
47,040	0	0	0	0	47,040	105,512	0	0	0	105,512
c. Provider Rate - For-Profit Providers (Restricted)										
143,058	0	0	0	0	143,058	287,689	0	0	0	287,689
4. Montana Correctional Enterprises (04)										
1,938,360	3,375,842	0	0	0	5,314,202	1,937,970	3,375,842	0	0	5,313,812
5. Youth Services (05)										
0	0	0	0	0	0	0	0	0	0	0
6. Clinical Services Division (06)										
24,458,848	208,900	0	0	0	24,667,748	24,451,627	208,900	0	0	24,660,527
7. Board of Pardons and Parole (07)										
1,072,125	0	0	0	0	1,072,125	1,070,579	0	0	0	1,070,579

Housing Funding may be used only to provide housing vouchers for eligible applicants.

General Fund	State Special Revenue	Fiscal 2020			Total	General Fund	State Special Revenue	Fiscal 2021			Total
		Federal Special Revenue	Proprietary	Other				Federal Special Revenue	Proprietary	Other	

Workload Study and Training funding is contingent on the department: (1) completing a workload study of probation and parole officers that includes an organizational assessment of the supervision structure and allocation of offender caseloads across probation and parole staff that is based on offender risk levels determined through a risk assessment; and (2) developing a plan to implement training on the offender management information system. The department shall report to the legislative finance committee by December 31, 2019, on the results of the workload study and allocation of offender caseloads and the plan to implement training for the offender management information system. Funding may be expended only after the budget director certifies that the department has completed its workload study on probation and parole and allocation of offender caseloads.

Director's Office Contingency funding may be expended in fiscal year 2021 only after the budget director certifies that county jail holds are maintained at a monthly average of 250 or less for the previous 18 months.

Offender Management Information System Training Positions must be funded out of the Probation and Parole Division's base budget with 2.00 nonbargaining FTE and must be used to immediately implement training to employees on the offender management information system and other needs as identified in Workload Study and Training.

All remaining federal pass-through grant appropriations for the bureau of crime control, up to \$11.0 million in federal funds, including revisions, for the 2019 biennium are authorized to continue and are appropriated in fiscal year 2020 and fiscal year 2021.

Probation and Parole Career Ladder is contingent on the department: (1) reviewing the files of all probationers and parolees under its supervision to determine if they are eligible for conditional discharge from supervision; and (2) notifying all eligible probationers and parolees in writing of their eligibility for conditional discharge from supervision. The department shall report to the legislative finance committee by December 31, 2019, on the number of files reviewed and the number of probationers and parolees eligible for conditional discharge from supervision. Funding may be expended only after the budget director certifies that the department has completed the evaluation of all parole files and has notified all eligible probationers and parolees.

The indirect cost rate allocation is capped at 3% beginning July 1, 2019, for regional correctional facilities, which are both regional prisons in Dawson and Cascade Counties and the Missoula assessment and sanctions center. Capital costs for these regional correctional facilities are allocated to the per diem based on a use allowance for selected items of costs as follows: (1) the use allowance for buildings and improvements is limited to 2% of acquisition cost for a maximum of 40 years; and (2) the use allowance for equipment with an individual acquisition cost of \$5,000 or more is limited to 6.67% of acquisition cost for 15 years. Effective July 1, 2019, a regional correctional facility shall consult with the department prior to any anticipated personal services increases or nonroutine purchases that exceed \$5,000.

It is the intent of the legislature that offender placement be based upon a risk/needs score and offender risk to the community.

Provider Rate Increases - It is the intent of the legislature that rates for the Dawson County correctional facility, the Cascade County regional prison, and the Missoula assessment and sanction center be capped at the amounts of \$86.23 for Dawson County correctional facility, \$79.00 for Cascade County regional prison, and \$91.88 for the Missoula assessment and sanction center in FY 2020 and \$87.96 for Dawson County correctional facility, \$80.58 for Cascade County regional prison, and \$93.72 for the Missoula assessment and sanction center in FY 2021.

General Fund	State Special Revenue	Fiscal 2020			Total	General Fund	State Special Revenue	Fiscal 2021			Total
		Federal Revenue	Special Revenue	Proprietary				Federal Revenue	Special Revenue	Proprietary	
E. EDUCATION											
OFFICE OF PUBLIC INSTRUCTION (35010)											
1. State Level Activities (06)											
8,207,321	245,145	17,474,245	0	0	25,926,711	8,213,618	245,433	17,474,789	0	0	25,933,840
a. Audiological Services (Restricted)											
508,000	0	0	0	0	508,000	508,000	0	0	0	0	508,000
b. Montana Digital Academy (Restricted)											
2,000,500	0	0	0	0	2,000,500	2,000,500	0	0	0	0	2,000,500
2. Local Education Activities (09)											
0	750,000	154,735,391	0	0	155,485,391	0	750,000	155,735,391	0	0	156,485,391
a. Advancing Agricultural Education (Restricted/Biennial)											
151,956	0	0	0	0	151,956	151,960	0	0	0	0	151,960
b. In-State Treatment (Restricted/Biennial)											
787,801	0	0	0	0	787,801	787,801	0	0	0	0	787,801
c. Secondary Vo-ed (Restricted/Biennial)											
2,000,000	0	0	0	0	2,000,000	2,000,000	0	0	0	0	2,000,000
d. Adult Basic Education (Restricted/Biennial)											
525,000	0	0	0	0	525,000	525,000	0	0	0	0	525,000
e. Gifted and Talented (Restricted/Biennial)											
350,000	0	0	0	0	350,000	350,000	0	0	0	0	350,000
f. K-12 BASE Aid (Restricted/Biennial)											
751,265,382	0	0	0	0	751,265,382	771,187,564	0	0	0	0	771,187,564
g. At-Risk Student Payment (Restricted/Biennial)											
5,541,074	0	0	0	0	5,541,074	5,641,973	0	0	0	0	5,641,973
h. State Block Grants (Restricted/Biennial)											
1,693,274	0	0	0	0	1,693,274	1,693,274	0	0	0	0	1,693,274
i. State Tuition Payments (Restricted/Biennial)											
377,675	0	0	0	0	377,675	377,675	0	0	0	0	377,675

	<u>Fiscal 2020</u>			<u>Total</u>	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Fiscal 2021</u>			<u>Total</u>
	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Special Revenue</u>				<u>General Fund</u>	<u>State Special Revenue</u>	<u>Special Revenue</u>	
j. Special Education (Restricted/Biennial)	43,509,471	0	0	43,509,471	43,509,471	0	0	0	0	43,509,471
k. Debt Service Assistance (Restricted)	0	0	0	0	0	2,500,000	0	0	0	2,500,000
l. School Food (Restricted/Biennial)	663,862	0	0	663,862	663,862	0	0	0	0	663,862
m. Transportation (Restricted/Biennial)	11,998,552	0	0	11,998,552	11,998,552	0	0	0	0	11,998,552
n. National Board-Certified Teachers (Restricted/Biennial/OTO)	107,000	0	0	107,000	174,500	0	0	0	0	174,500
o. Major Maintenance Aid and Debt Service Assistance (Restricted)	4,783,000	1,617,000	0	6,400,000	5,391,000	2,209,000	0	0	0	7,600,000
p. School Safety (Restricted/Biennial)	100,000	0	0	100,000	100,000	0	0	0	0	100,000
q. Cultural Integrity Commitment Act -- HB 41	47,590	0	0	47,590	48,470	0	0	0	0	48,470
Total	834,617,458	2,612,145	172,209,636	1,009,439,239	855,323,220	5,704,433	173,210,180	0	0	1,034,237,833

The Office of Public Instruction may distribute funds from the appropriation for In-State Treatment to public school districts for the purpose of providing educational costs of children with significant behavioral or physical needs.

All revenue up to \$1.3 million in the traffic education account for distribution to schools under the provisions of 20-7-506 and 61-5-121 is appropriated as provided in Title 20, chapter 7, part 5.

All appropriations for federal special revenue programs in state level activities and in local education activities are biennial. All general fund appropriations in local education activities are biennial, except Major Maintenance Aid and Debt Service Assistance.

The Major Maintenance Aid and Debt Service Assistance restricted line item appropriation is restricted to the major maintenance aid program established in 20-9-525 unless funding requirements for the program are less than the available funds. Any remaining appropriation authority from the restricted appropriations may be used to augment the appropriations for debt service assistance established in 20-9-367.

Cultural Integrity Commitment Act -- HB 41 is contingent on passage and approval of HB 41.

If HB 695 is not passed and approved, K-12 BASE Aid is increased by \$400,000 general fund in FY 2020 and \$400,000 general fund in FY 2021.

	Fiscal 2020			Fiscal 2021		
	General Fund	State Special Revenue	Federal Special Revenue	General Fund	State Special Revenue	Federal Special Revenue
Proprietary						
Other						
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	Fiscal 2020					Fiscal 2021						
	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total	General Fund	State Special Revenue	Federal Special Revenue	Proprietary	Other	Total
7. Appropriation Distribution (09)												
178,234,204	22,332,159	0	0	0	0	200,566,363	179,951,878	22,798,159	0	0	0	202,750,037
a. Legislative Audit (Restricted/Biennial)												
572,108	0	0	0	0	0	572,108	0	0	0	0	0	0
8. Research and Development Agencies (10)												
28,158,298	914,968	0	0	0	0	29,073,266	28,298,693	914,968	0	0	0	29,213,661
a. Montana Agricultural Experiment Stations Seed Lab (Restricted/OTO)												
100,000	0	0	0	0	0	100,000	100,000	0	0	0	0	100,000
b. Montana Agricultural Experiment Stations Wool Lab (Restricted/OTO)												
55,000	0	0	0	0	0	55,000	55,000	0	0	0	0	55,000
c. Montana Bureau of Mines and Geology Data Preservation (Restricted/OTO)												
0	300,000	0	0	0	0	300,000	0	300,000	0	0	0	300,000
9. Tribal College (11)												
837,875	0	0	0	0	0	837,875	837,875	0	0	0	0	837,875
a. High School Equivalency Test (HiSET) to Tribal Colleges (Restricted/OTO)												
175,000	0	0	0	0	0	175,000	175,000	0	0	0	0	175,000
10. Guaranteed Student Loan (12)												
0	0	2,395,729	0	0	0	2,395,729	0	0	2,395,303	0	0	2,395,303
11. Board of Regents (13)												
67,350	0	0	0	0	0	67,350	67,350	0	0	0	0	67,350

Items designated as OCHE Administration (01), Student Assistance (02), Educational Outreach and Diversity (06), Workforce Development (08), Appropriation Distribution (09), Guaranteed Student Loan (12), and the Board of Regents (13) are designated as biennial appropriations.

General fund money, state and federal special revenue and proprietary fund revenue appropriated to the Board of Regents are included in all Montana university system programs. All other public funds received by units of the Montana university system (other than plant funds appropriated in HB 5, relating to long-range building) are appropriated to the board of regents and may be expended under the provisions of 17-7-138(2). The board of regents shall allocate the appropriations to individual university system units, as defined in 17-7-102(15), according to board policy.

Fiscal 2020			Fiscal 2021		
General Fund	State Special Revenue		Federal Special Revenue		
		Total		Proprietary	Other
					Total

The Montana University system, except the Office of the Commissioner of Higher Education and the community colleges, shall provide the office of budget and program planning and the legislative fiscal division banner access to the entire university system's information system, except for information pertaining to individual students and individual employees that is protected by Article II, sections 9 and 10, of the Montana constitution, 20-25-515, or the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g.

The Montana university system shall provide the electronic data required for entering human resource data for the current unrestricted operating funds into the Internet Budgeting and Reporting System (IBARS). The salary and benefit data provided must reflect approved board of regents operating budgets.

The average budgeted amount for each full-time equivalent student at the community colleges, includes \$3,196 for each year of the 2021 biennium. The general fund appropriation for Community College Assistance provides 48.2% in FY 2020 and 48.2% in FY 2021 of the budget amount for each full-time equivalent student each year of the 2021 biennium. The remaining 51.8% of the budget amount for each full-time equivalent student must be paid from funds other than those appropriated for Community College Assistance.

The commissioner may adjust the funding distribution between community colleges based on actual enrollment.

The general fund appropriation for Community College Assistance is calculated to fund education in the community colleges for an estimated 2,083 resident FTE in FY 2020 and 2,143 in FY 2021. If total resident FTE student enrollment in the community colleges is greater than the estimated number for the biennium, the community colleges shall serve the additional students without a state general fund contribution. If actual resident FTE student enrollment is less than the estimated numbers for the biennium, the community colleges shall revert general fund money to the state in accordance with 17-7-142.

Funding to be transferred to the state energy conservation program debt service account for energy improvements are as followed. Transferred funding for each year of the biennium to retire bonded projects are University of Montana \$26,500, UM Western \$98,000, UM Helena \$6,000, MSU Northern \$16,700 in FY 2020 and \$16,200 in FY 2021, MSU Billings \$45,519, Great Falls \$86,500. Funding to be transferred for each year of the biennium for state energy revolving projects are UM Western \$41,885 in FY 2020 and \$41,205 in FY 2021, UM Helena \$55,649, UM Montana Tech \$90,266, MSU Billings \$55,323, MSU Northern \$64,576, Miles Community College \$23,553, University of Montana \$294,875. Montana State University transfers are \$277,611 in FY 2020 and \$254,753 in FY 2021.

Total audit costs are estimated to be \$197,329 for the community colleges for the biennium. The general fund appropriation for each community college provides 48.2% of the total audit costs in the 2021 biennium. The remaining 51.8% of these cost must be paid from funds other than those appropriated from Community College Assistance – Legislative Audit. Audit costs charged to the community colleges for the biennium may not exceed \$62,577 for Flathead Valley CC, \$56,987 for Miles CC, and \$77,765 for Dawson CC. Total audit cost for Administration \$65,951, UM - Missoula \$286,054, MSU - Bozeman \$286,054.

The Montana university system shall pay \$88,506 for the 2021 biennium in current funds in support of the Montana Natural Resource Information System (NRIS) located at the Montana state library. Quarterly payments must be made upon receipt of the bills from the state library, up to the total appropriated.

General Fund	State Special Revenue	Fiscal 2020			Total	General Fund	State Special Revenue	Fiscal 2021			Total
		Federal Special Revenue	Proprietary	Other				Federal Special Revenue	Proprietary	Other	
SCHOOL FOR THE DEAF AND BLIND (51130)											
1. Administration Program (01)											
581,183	3,265	0	0	0	584,448	581,794	3,265	0	0	0	585,059
a. Legislative Audit (Restricted/Biennial)											
25,824	0	0	0	0	25,824	0	0	0	0	0	0
2. General Services (02)											
491,679	0	0	0	0	491,679	491,120	0	0	0	0	491,120
3. Student Services (03)											
1,595,543	0	34,165	0	0	1,629,708	1,596,321	0	34,165	0	0	1,630,486
a. Student Travel (Restricted/OTO)											
30,000	0	0	0	0	30,000	30,000	0	0	0	0	30,000
4. Education (04)											
4,817,106	282,117	147,740	0	0	5,246,963	4,821,982	282,117	147,740	0	0	5,251,839
a. Extracurricular stipends (Restricted/OTO)											
26,938	0	0	0	0	26,938	26,938	0	0	0	0	26,938
Total											
7,568,273	285,382	181,905	0	0	8,035,560	7,548,155	285,382	181,905	0	0	8,015,442
MONTANA ARTS COUNCIL (51140)											
1. Promotion of the Arts (01)											
523,503	241,419	717,281	0	0	1,482,203	523,069	241,036	716,782	0	0	1,480,887
a. Legislative Audit (Restricted/Biennial)											
27,811	0	0	0	0	27,811	0	0	0	0	0	0
Total											
551,314	241,419	717,281	0	0	1,510,014	523,069	241,036	716,782	0	0	1,480,887
All HB 2 federal funding appropriations for the Montana Arts Council are biennial appropriations.											

All HB 2 federal funding appropriations for the Montana Arts Council are biennial appropriations.

General Fund	State Special Revenue	<u>Fiscal 2020</u>			<u>Total</u>	General Fund	State Special Revenue	<u>Fiscal 2021</u>			<u>Total</u>
		Federal Special Revenue	Proprietary	Other				Federal Special Revenue	Proprietary	Other	
TOTAL SECTION E											
1,085,392,121	30,025,979	193,167,616	1,232,543	0	1,309,818,259	1,107,660,012	33,682,136	193,919,104	1,232,620	0	1,336,493,872
TOTAL STATE FUNDING											
2,108,910,340	797,297,007	2,172,246,879	12,801,701	0	5,091,255,927	2,166,919,936	802,001,188	2,220,678,546	12,672,503	0	5,202,272,173

Section 12. Rates. Internal service fund type fees and charges established by the legislature for the 2021 biennium in compliance with 17-7-123(1)(f)(ii) are as follows:

	<u>Fiscal 2020</u>	<u>Fiscal 2021</u>
DEPARTMENT OF REVENUE – 5801		
1. Citizen Services and Resource Management Division		
Delinquent Account Collection Fee (maximum percent of amount collected)	5%	4.5%
DEPARTMENT OF ADMINISTRATION – 6101		
1. Director's Office		
a. Management Services		
Total Allocation of Costs	\$1,408,903	\$1,408,903
Portion of unit for HR charges per FTE of user programs	\$947	\$947
b. Continuity, Emergency Preparedness, & Security		
Total Allocation of Costs	\$758,029	\$757,972
2. State Financial Services Division		
a. SABHRS Finance and Budget Bureau		
SABHRS Services Fee (total allocation of costs)	\$4,168,579	\$3,974,661
b. Warrant Writer		
Mailer	\$0.83386	\$0.83386
Nonmailer	0.36059	\$0.36059
Emergency	\$13.52212	\$13.52212
Duplicates	\$9.01475	\$9.01475
Payroll-Printed Warrants	\$0.15206	\$0.15206
Externals		
University System	\$0.12170	\$0.12170
Direct Deposit		
Direct Deposit - Mailer	\$0.99162	\$0.99162
Direct Deposit - No Advice Printed	\$0.13522	\$0.13522
Unemployment Insurance		
Mailer - Print Only	\$0.11847	\$0.11847
Direct Deposit - No Advice Printed	\$0.02982	\$0.02982
3. General Services Division		
a. Facilities Management Bureau		
Office Rent (per sq. ft.)	\$10.540	\$10.736
Nonoffice Rent (per sq. ft.)	\$5.546	\$5.546
Grounds Maintenance (per sq.ft - only one building)	\$0.615	\$0.615
Project Management - In-house	15%	15%
Project Management - Consultation	Actual Cost	Actual Cost
State Employee Access ID Card	Actual Cost	Actual Cost
b. Print and Mail Services		
Internal Printing		
Impression Cost	Cost + 25%	Cost + 25%
Large Format Color	Cost + 25%	Cost + 25%
Ink	Cost + 25%	Cost + 25%
Bindery Work	Cost + 25%	Cost + 25%
Variable Data Printing	Cost + 25%	Cost + 25%
Pick and Pack Fulfilment	\$1.00	\$1.00
Overtime	\$30.00	\$30.00
Desktop	\$75.00	\$75.00
Scan	Cost + 25%	Cost + 25%
IT Programming	\$95.00	\$95.00
File Transfer	\$25.00	\$25.00
Mainframe Printing	\$0.071	\$0.071

Warrant Printing	\$0.25	\$0.25
Inventory Mark Up	20.0%	20.0%
CD/DVD Duplicating	Cost + 25%	Cost + 25%
Prepress Work	Cost + 25%	Cost + 25%
External Printing		
Percent of Invoice markup	8.80%	8.80%
Managed Print		
Percent of Invoice markup	15.9%	15.9%
Mail Preparation		
Tabbing	\$0.023	\$0.023
Labeling	\$0.023	\$0.023
Ink Jet	\$0.036	\$0.036
Inserting	\$0.045	\$0.045
Waymark	\$0.069	\$0.069
Permit Mailings	\$0.069	\$0.069
Mail Operations		
Machinable	\$0.043	\$0.043
Nonmachinable	\$0.110	\$0.110
Seal Only	\$0.020	\$0.020
Postcards	\$0.070	\$0.070
Certified Mail	\$0.620	\$0.620
Registered Mail	\$0.614	\$0.614
International Mail	\$0.510	\$0.510
Flats	\$0.150	\$0.150
Priority	\$0.614	\$0.614
Express Mail	\$0.614	\$0.614
USPS Parcels	\$0.510	\$0.510
Insured Mail	\$0.614	\$0.614
Media Mail	\$0.320	\$0.320
Standard Mail	\$0.200	\$0.200
Postage Due	\$0.061	\$0.061
Fee Due	\$0.061	\$0.061
Tapes	\$0.245	\$0.245
Express Services	\$0.500	\$0.500
Mail Tracking	\$0.250	\$0.250
Cass Letters/Postcards	\$0.047	\$0.047
Cass Flats	\$0.100	\$0.100
Flat Sorter	\$0.250	\$0.250
Interagency Mail	\$362,325 yearly	\$362,325 yearly
Postal Contract (Capitol)	\$38,976 yearly	\$38,976 yearly

4. State Information Technology Services Division

Rates Maintained/Based Upon SITSD's Tech Budget Model

Operations of the Division 30-Day Working Capital Reserve

The 30-day working capital reserve used to establish state information technology services division rates for state agencies included in HB 2 is based on personal services of \$15,890,000 in FY 2020 and \$15,890,000 in FY 2021, operating expenses of \$28,475,128 in FY 2020 and \$28,418,455 in FY 2021, equipment and intangible assets of \$370,861 in FY 2020 and \$370,861 in FY 2021, and debt service of \$2,113,148 in FY 2020 and \$2,113,148 in FY 2021. The state information technology services division shall report to the legislative finance committee at its June 2019 meeting on how it implemented the state agency rates for information technology. The state information technology services division shall also report any adjustments to state agency rates for information technology at each subsequent meeting of the legislative finance committee.

5. Health Care and Benefits Division

a. Workers' Compensation Management Program

Administrative Fee	\$0.95	\$0.95
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6. State Human Resources Division

a. Intergovernmental Training

Open Enrollment Courses

Two-Day Course (per participant)	\$190.00	\$190.00
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One-Day Course (per participant)	\$123.00	\$123.00
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Half-Day Course (per participant)	\$95.00	\$95.00
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Eight-Day Management Series (per participant)	\$800.00	\$800.00
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Six-Day Management Series (per participant)	\$600.00	\$600.00
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Four-Day Administrative Series (per participant)	\$400.00	\$400.00
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Contract Courses

Full-Day Training (flat fee)	\$830.00	\$830.00
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Half-Day Training (flat fee)	\$570.00	\$570.00
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Computer Maintenance Charges (course specific)	\$10.00	\$10.00
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b. Human Resources Information System Fee

Per payroll warrant advice per pay period	\$8.89	\$8.89
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7. Risk Management & Tort Defense

Auto Liability, Comprehensive, and Collision (total allocation to agencies)

\$2,022,570	\$2,022,570
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Aviation (total allocation to agencies)	\$169,961	\$169,961
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General Liability (total allocation to agencies)	\$14,573,235	\$14,573,236
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Property/Miscellaneous (total allocations to agencies)	\$6,930,000	\$6,930,000
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DEPARTMENT OF COMMERCE – 6501

1. Board of Investments

For the purposes of [this act], the legislature defines “rates” as the total collections necessary to operate the board of investments as follows:

a. Administration Charge (total)	\$7,198,414	\$7,198,414
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2. Director's Office/Management Services

a. Management Services Indirect Charge Rate

State	14.22%	14.22%
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Federal	14.22%	14.22%
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DEPARTMENT OF LABOR AND INDUSTRY – 6602

1. Centralized Services Division

a. Cost Allocation Plan	8.10%	8.10%
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b. Office of Legal Services (direct hourly rate)	\$103	\$103
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2. Technology Services Division

a. Technical Services (per FTE)	\$266	\$266
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b. Application Services (per hour)	\$84	\$84
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c. Enterprise Services Rate (Total amount allocated to divisions based on FTE)	\$819,755	\$819,755
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d. Direct Services Rate (pass through to divisions)	Actual cost	Actual Cost
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DEPARTMENT OF FISH, WILDLIFE, & PARKS – 5201

1. Vehicles

Tier one:

a. Class 210 (Sedan)

Per Hour Assigned	\$0.452	\$0.389
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Per Mile Operated	\$0.141	\$0.149
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b. Class 310 (Van)

Per Hour Assigned	\$0.236	\$0.243
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Per Mile Operated	\$0.410	\$0.418
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c. Class 410 (Utility)

Per Hour Assigned	\$0.909	\$0.888
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Per Mile Operated	\$0.196	\$0.204
d. Class 610 (1/2 Ton Pickup)		
Per Hour Assigned	\$0.741	\$0.828
Per Mile Operated	\$0.268	\$0.276
e. Class 710 (3/4 Ton Pickup)		
Per Hour Assigned	\$1.049	\$1.035
Per Mile Operated	\$0.314	\$0.322
Tier two:		
a. Class 210 (Sedan)		
Per Hour Assigned	\$0.452	\$0.389
Per Mile Operated	\$0.157	\$0.165
b. Class 310 (Van)		
Per Hour Assigned	\$0.236	\$0.243
Per Mile Operated	\$0.438	\$0.446
c. Class 410 (Utility)		
Per Hour Assigned	\$0.909	\$0.888
Per Mile Operated	\$0.222	\$0.230
d. Class 610 (1/2 Ton Pickup)		
Per Hour Assigned	\$0.741	\$0.828
Per Mile Operated	\$0.302	\$0.310
e. Class 710 (3/4 Ton Pickup)		
Per Hour Assigned	\$1.049	\$1.035
Per Mile Operated	\$0.358	\$0.366
Tier three:		
a. Class 210 (Sedan)		
Per Hour Assigned	\$0.452	\$0.389
Per Mile Operated	\$0.173	\$0.181
b. Class 310 (Van)		
Per Hour Assigned	\$0.236	\$0.243
Per Mile Operated	\$0.466	\$0.474
c. Class 410 (Utility)		
Per Hour Assigned	\$0.909	\$0.888
Per Mile Operated	\$0.248	\$0.256
d. Class 610 (1/2 Ton Pickup)		
Per Hour Assigned	\$0.741	\$0.828
Per Mile Operated	\$0.336	\$0.344
e. Class 710 (3/4 Ton Pickup)		
Per Hour Assigned	\$1.049	\$1.035
Per Mile Operated	\$0.401	\$0.409
2. Aircraft Per Hour Rates		
Two place-single engine	\$201	\$206
Four Place-single engine	\$282	\$233
Turbine helicopter	\$516	\$531
3. Duplicating Center Per Copy Rates		
1-20	\$0.08	\$0.08
21-100	\$0.06	\$0.06
101 - 1,000	\$0.06	\$0.06
1,001- 5,000	\$0.05	\$0.05
Color - per sheet	\$0.30	\$0.30
4. Other Services		
Coil Binding	\$0.85	\$0.85
Collating by hand - per minute	\$0.64	\$0.64
Collating - per sheet	\$0.02	\$0.02
Hand Stapling - per set	\$0.03	\$0.03
Saddle Stitch - per set	\$0.05	\$0.05

Folding - per sheet	\$0.02	\$0.02
Inserting	\$0.04	\$0.04
Tabbing	\$0.03	\$0.03
Punching - per sheet	\$0.01	\$0.01
Cutting - per minute	\$0.71	\$0.71
Laminating	\$0.61	\$0.61
Proofing	\$0.25	\$0.25
Desktop Publishing - per hour	\$46.36	\$46.36
5. Ware House Overhead Rate	35%	35%

DEPARTMENT OF ENVIRONMENTAL QUALITY -- 5301

Indirect Rate

a. Personal Services	24%	24%
b. Operating Expenditures	4%	4%

DEPARTMENT OF TRANSPORTATION -- 5401

1. State Motor Pool

In the motor pool program, if the price of gasoline goes above \$3.22, Tier 2 rates may be charged if approved by the Office of Budget and Program Planning. If the price of gasoline goes above \$3.72, Tier 3 rates may be charged if approved by the Office of Budget and Program Planning.

Tier one

a. Class 02 (small utilities)		
Per Hour Assigned	\$1.488	\$1.589
Per Mile Operated	\$0.139	\$0.140
b. Class 04 (large utilities)		
Per Hour Assigned	\$1.742	\$1.760
Per Mile Operated	\$0.188	\$0.189
c. Class 05 (hybrid sedans)		
Per Hour Assigned	\$0.985	\$1.010
Per Mile Operated	\$0.110	\$0.111
d. Class 06 (midsize compacts)		
Per Hour Assigned	\$1.237	\$1.252
Per Mile Operated	\$0.128	\$0.129
e. Class 07 (small pickups)		
Per Hour Assigned	\$0.432	\$0.452
Per Mile Operated	\$0.200	\$0.201
f. Class 11 (large pickups)		
Per Hour Assigned	\$1.152	\$1.281
Per Mile Operated	\$0.209	\$0.210
g. Class 12 (vans – all types)		
Per Hour Assigned	\$1.350	\$1.512
Per Mile Operated	\$0.156	\$0.157

Tier two (contingent \$3.22/gallon)

a. Class 02 (small utilities)		
Per Hour Assigned	\$1.488	\$1.589
Per Mile Operated	\$0.160	\$0.161
b. Class 04 (large utilities)		
Per Hour Assigned	\$1.742	\$1.760
Per Mile Operated	\$0.217	\$0.218
c. Class 05 (hybrid sedans)		
Per Hour Assigned	\$0.985	\$1.010
Per Mile Operated	\$0.123	\$0.124
d. Class 06 (midsize compacts)		
Per Hour Assigned	\$1.237	\$1.252
Per Mile Operated	\$0.146	\$0.147

e. Class 07 (small pickups)		
Per Hour Assigned	\$0.432	\$0.452
Per Mile Operated	\$0.230	\$0.231
f. Class 11 (large pickups)		
Per Hour Assigned	\$1.152	\$1.281
Per Mile Operated	\$0.242	\$0.243
g. Class 12 (vans – all types)		
Per Hour Assigned	\$1.350	\$1.512
Per Mile Operated	\$0.181	\$0.181
Tier three (contingent \$3.72/gallon)		
a. Class 02 (small utilities)		
Per Hour Assigned	\$1.488	\$1.589
Per Mile Operated	\$0.182	\$0.182
b. Class 04 (large utilities)		
Per Hour Assigned	\$1.742	\$1.760
Per Mile Operated	\$0.246	\$0.247
c. Class 05 (hybrid sedans)		
Per Hour Assigned	\$0.985	\$1.010
Per Mile Operated	\$0.136	\$0.137
d. Class 06 (midsize compacts)		
Per Hour Assigned	\$1.237	\$1.252
Per Mile Operated	\$0.164	\$0.165
e. Class 07 (small pickups)		
Per Hour Assigned	\$0.432	\$0.452
Per Mile Operated	\$0.260	\$0.261
f. Class 11 (large pickups)		
Per Hour Assigned	\$1.152	\$1.281
Per Mile Operated	\$0.276	\$0.277
g. Class 12 (vans – all types)		
Per Hour Assigned	\$1.350	\$1.512
Per Mile Operated	\$0.205	\$0.206
2. Equipment Program		
All of Program Operations	60-day working capital reserve	

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION – 5706

1. Air Operations Program		
a. Bell UH-1H	\$1,650	\$1,650
b. Bell Jet Ranger	\$515	\$515
c. Cessna 180 Series	\$175	\$175

DEPARTMENT OF JUSTICE – 4110

1. Agency Legal Services		
a. Attorney (per hour)	\$106.00	\$106.00
b. Investigator (per hour)	\$62.00	\$62.00

DEPARTMENT OF CORRECTIONS - 6401

1. Labor Charge for Motor Vehicle Maintenance (per hour)	\$28.45	\$28.45
2. Supply Fee as a Percentage of Actual Costs of Parts	8%	8%
3. Parts	Actual Cost	Actual Cost
4. Cook/Chill Rate -- Hot/Cold Base Tray Price (no delivery)	\$2.35	\$2.35
5. Cook/Chill Rate – Hot Base Tray Price	\$1.22	\$1.22
6. Delivery Charge Per Mile	\$0.50	\$0.50
7. Delivery Charge Per Hour	\$35.00	\$35.00
8. Spoilage Percentage All Customers	5%	5%
9. Detention Center Trays	\$2.95	\$2.95
10. Accessory Package	\$0.16	\$0.16

11. Bulk Food	Actual Cost	Actual Cost
12. Overhead Charge		
a. Montana State Hospital	10%	10%
b. Montana State Prison	90%	90%

OFFICE OF PUBLIC INSTRUCTION - 3501

1. OPI Indirect Cost Pool		
a. Unrestricted Rate	17.0%	17.0%
b. Restricted Rate	17.0%	17.0%

Approved May 13, 2019

CHAPTER NO. 484

[SB 201]

AN ACT GENERALLY REVISING QUALIFICATIONS NECESSARY TO HOLD A MINING PERMIT; REVISING REQUIREMENTS FOR COAL MINE PERMITTEES TO PROVIDE CERTAIN FINANCIAL ASSURANCES TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY; CLARIFYING LEGISLATIVE INTENT; PROVIDING FOR CONTINGENT VOIDNESS; AMENDING SECTION 82-4-222, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the State of Montana has an interest in ensuring that private pension plans remain in good standing and that employees who have earned benefits under those plans receive them;

WHEREAS, it is imperative that private employers not backtrack on pension plans, shifting the burden to the State of Montana; and

WHEREAS, if private pension plans fail to provide earned benefits, the State of Montana may be burdened with additional responsibilities and demands for Medicaid coverage, the Supplemental Nutrition Assistance Program, Temporary Assistance for Needy Families, Low Income Home Energy Assistance Programs, and multiple other government programs.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 82-4-222, MCA, is amended to read:

"82-4-222. Permit application – application revisions. (1) An operator desiring a permit shall file an application that must contain a complete and detailed plan for the mining, reclamation, revegetation, and rehabilitation of the land and water to be affected by the operation. The plan must reflect thorough advance investigation and study by the operator, include all known or readily discoverable past and present uses of the land and water to be affected and the approximate periods of use, and provide:

(a) the location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;

(b) the names and addresses of the owners of record and any purchasers under contracts for deed of the surface of the area of land to be affected by the permit and the owners of record and any purchasers under contracts for deed of all surface area within one-half mile of any part of the affected area;

(c) the names and addresses of the present owners of record and any purchasers under contracts for deed of all subsurface minerals in the land to be affected;

(d) the source of the applicant's legal right to mine the mineral on the land affected by the permit;

(e) the permanent and temporary post-office addresses of the applicant;

(f) whether the applicant or any person associated with the applicant holds or has held any other permits under this part and an identification of those permits;

(g) (i) whether the applicant is in compliance with 82-4-251 and, if known, whether each officer, partner, director, or any individual, owning of record or beneficially, alone or with associates, 10% or more of any class of stock of the applicant, is subject to any of the provisions of 82-4-251. If so, the applicant shall certify the fact. *The information required in this subsection (1)(g) must be updated and approved by the department in the event of a change in the parties specified in this subsection (1)(g)(i) as a result of bankruptcy or reorganization.*

(ii) whether any of the parties or persons specified in subsection (1)(g)(i) have ever had a strip-mining or underground-mining license or permit issued by any other state or federal agency revoked or have ever forfeited a strip-mining or underground-mining bond or a security deposited in lieu of a bond. If so, a detailed explanation of the facts involved in each case must be attached.

(iii) *evidence, determined by department rule and in accordance with 82-4-231, that the parties or persons specified in subsection (1)(g)(i) will provide bonding or other financial assurance necessary to meet their financial [obligations for employee pensions and] obligations to reclaim property in accordance with the requirements of 82-4-231 through 82-4-234. [An operator may not pass the costs associated with the financial obligations for employee pensions established in this subsection (1)(g)(iii) on to purchasers served by the strip or underground mine if the purchasers are dependent on the mine to generate electricity that is consumed by electric customers.]*

(h) whether the applicant has a record of outstanding reclamation fees with the federal coal regulatory authority;

(i) the names and addresses of any persons who are engaged in strip-mining or underground-mining activities on behalf of the applicant;

(j) the annual rainfall and the direction and average velocity of the prevailing winds in the area where the applicant has requested a permit;

(k) the results of any test borings or core samplings that the applicant or the applicant's agent has conducted on the land to be affected, including the nature and the depth of the various strata or overburden and topsoil, the quantities and location of subsurface water and its quality, the thickness of any mineral seam, an analysis of the chemical properties of the minerals, including the acidity, sulfur content, and trace mineral elements of any coal seam, as well as the British thermal unit (Btu) content of the seam, and an analysis of the overburden, including topsoil. If test borings or core samplings are submitted, each permit application must contain two sets of geologic cross sections accurately depicting the known geologic makeup beneath the surface of the affected land. Each set must depict subsurface conditions at intervals the department requires across the surface and must run at a 90-degree angle to the other set. The department may not require intervals of less than 500 feet. Each cross section must depict the thickness and geologic character of all known strata, beginning with the topsoil. In addition, each application for an underground-mining permit must be accompanied by cross sections and maps showing the proposed underground locations of all shafts, entries, and haulageways or other excavations to be excavated during the permit period. These cross sections must also include all existing shafts, entries, and haulageways.

(l) the name of a newspaper of general circulation in the locality of the proposed activity in which the applicant will prominently publish at least once a week for 4 successive weeks after submission of the application an announcement of the applicant's application for a strip-mining or

underground-mining permit and a detailed description of the area of land to be affected if a permit is granted. If that newspaper is not published in Montana, the applicant shall also provide the name of a newspaper of general circulation in the county in which the proposed operation is located that is published in Montana in which the applicant will publish an announcement and description in accordance with this subsection.

(m) a determination of the probable hydrologic consequences of coal mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime and quantity and quality of water in surface water and ground water systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas, so that cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability can be made. However, this determination is not required until hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency. The permit may not be approved until the information is available and is incorporated into the application. The determination of probable hydrologic consequences must include findings on:

- (i) whether adverse impacts may occur to the hydrologic balance;
- (ii) whether acid-forming or toxic-forming materials are present that could result in the contamination of ground water or surface water supplies;
- (iii) whether the proposed operation may proximately result in contamination, diminution, or interruption of an underground or surface source of water within the proposed permit or adjacent areas that is used for domestic, agricultural, industrial, or other beneficial use; and
- (iv) what impact the operation will have on:
 - (A) sediment yields from the disturbed area;
 - (B) acidity, total suspended and dissolved solids, and other important water quality parameters of local impact;
 - (C) flooding or streamflow alteration;
 - (D) ground water and surface water availability; and
 - (E) other characteristics required by the department that potentially affect beneficial uses of water in and adjacent to the permit area.

(n) a plan for monitoring ground water and surface water, based upon the determination of probable hydrologic consequences required under subsection (1)(m). The plan must provide for the monitoring of parameters that relate to the availability and suitability of ground water and surface water for current and approved postmining land uses and the objectives for protection of the hydrologic balance.

(o) a map depicting the projected postmining topography, using cross sections, range diagrams, or other methods approved by the department, showing the manner of spoil placement, showing removal of coal volume and overburden swell, and including:

- (i) locations and elevations of tie-in points with adjacent unmined drainageways;
- (ii) approximate locations of primary or highest order drainageways and associated drainage divides in the reclaimed topography; and
- (iii) projected elevations of primary drainageways and associated drainage divides and generalized slopes with the level of detail appropriate to project the approximate original contour;

(p) the condition of the land to be covered by the permit prior to any mining, including:

- (i) the land uses existing at the time of the application and, if the land has a history of previous mining, the uses that preceded any mining;

(ii) the capability of the land prior to any mining to support a variety of uses, giving consideration to soil characteristics, topography, and vegetative cover; and

(iii) the productivity of the land prior to mining, including appropriate classification as prime farm land, as well as the average yield of food, fiber, forage, or wood products from land under high levels of management;

(q) a coal conservation plan; and

(r) other or further information as the department may require.

(2) The application for a permit must be accompanied by maps meeting the requirements of subsections (2)(a) through (2)(n). The maps must:

(a) identify the area to correspond with the application;

(b) show any adjacent deep mining or surface mining, the boundaries of surface properties, and names of owners of record of the affected area and within 1,000 feet of any part of the affected area;

(c) show the names and locations of all streams, creeks, or other bodies of water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within 1,000 feet of the area;

(d) show by appropriate markings the boundaries of the area of land affected, any cropline of the seam or deposit of mineral to be mined, and the total number of acres involved in the area of land affected;

(e) show the date on which the map was prepared and the north point;

(f) show the final surface and underground water drainage plan on and away from the area of land affected. This plan must indicate the directional and volume flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge.

(g) show the proposed location of waste or refuse area;

(h) show the proposed location of temporary subsoil and topsoil storage area;

(i) show the proposed location of all facilities;

(j) show the location of test boring holes;

(k) show the surface location lines of any geologic cross sections that have been submitted;

(l) show a listing of plant species encountered in the area to be affected and their relative dominance in the area, together with an enumeration of tree species and the approximate number of each species occurring per acre on the area to be affected, and the locations generally of the various species of plants;

(m) be certified by a professional engineer or professional land surveyor licensed as provided by Title 37, chapter 67; and

(n) contain other or further information as the department may require.

(3) If the department finds that the probable total annual production at all locations of any strip-mining or underground-coal-mining operation applied for will not exceed 100,000 tons, any determination of probable hydrologic consequences that the department requires and the statement of result of test borings or core samplings must, upon written request of the operator, be performed by a qualified public or private laboratory designated by the department. The department shall assume the cost of the determination and statement to the extent that it has received funds for this purpose.

(4) In addition to the information and maps required by this section, each application for a permit must be accompanied by detailed plans or proposals showing the method of operation, the manner, time or distance, and estimated cost for backfilling, subsidence stabilization, water control, grading work, highwall reduction, topsoiling, planting, and revegetating, and a reclamation plan for the area affected by the operation, which proposals must meet the requirements of this part and rules adopted under this part. The reclamation

plan must address the life of the operation and indicate the size, sequence, and the timing of the subareas for which it is anticipated that individual permits will be sought.

(5) Each applicant for a coal mining permit shall submit as part of the application a certificate issued by an insurance company authorized to do business in the state, certifying that the applicant has in force for the strip-mining or underground-mining and reclamation operations for which the permit is sought a public liability insurance policy or evidence that the applicant has satisfied other state or federal self-insurance requirements. This policy must provide for personal injury and property damage protection in an amount adequate to compensate any persons damaged as a result of strip-mining or underground-coal-mining and reclamation operations, including use of explosives, and entitled to compensation under applicable provisions of state law. The permittee shall maintain the policy in full force and effect during the term of the permit and any renewal until all reclamation operations have been completed.

(6) An applicant may revise an application for a permit, a permit amendment, or a permit revision that is pending on January 1, 2004, in order to incorporate the provisions of this part.

(7) A permittee may apply to revise and the department may approve an application to incorporate the provisions of this part into a reclamation plan approved before January 1, 2004. The reclamation plan may be revised whether or not reclamation has been completed pursuant to the reclamation plan.

(8) Each applicant for a strip-mining or underground-mining reclamation permit shall file a copy of the applicant's application for public inspection with the clerk and recorder at the courthouse of the county in which the major portion of mining is proposed to occur or at another accessible public office or facility approved by the department."

Section 2. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 3. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 4. Contingent voidness. If the bracketed language in subsection (1)(g)(iii) as included in [section 1] is invalidated or found to be unconstitutional by a court of competent jurisdiction on its final disposition, then the bracketed language in subsection (1)(g)(iii) as included in [section 1] terminates on the date of the invalidation or the finding of unconstitutionality.

Section 5. Effective date. [This act] is effective on passage and approval.

Approved May 13, 2019

CHAPTER NO. 485

[SB 247]

AN ACT REVISING THE AUTHORITY OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS RELATED TO INSTREAM FLOWS TO BENEFIT FISHERIES; EXTENDING TERMINATION DATES FOR LEASING WATER RIGHTS FOR INSTREAM FLOWS; AMENDING SECTION 85-2-436, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 85-2-436, MCA, is amended to read:

"85-2-436. Instream flow to protect, maintain, or enhance streamflows to benefit fishery resource – change in appropriation rights. (1) The department of fish, wildlife, and parks may change an appropriation right, which it either holds in fee simple or leases, to an instream flow purpose of use and a defined place of use to protect, maintain, or enhance streamflows to benefit the fishery resource.

(2) The change in purpose of use or place of use must meet all of the criteria and process outlined in 85-2-307 through 85-2-309, 85-2-401, and 85-2-402 and the additional criteria and process described in subsection (3) of this section to protect the rights of other appropriators from adverse impacts.

(3) (a) The department of fish, wildlife, and parks, with the consent of the commission, may lease existing rights for the purpose of protecting, maintaining, or enhancing streamflows to benefit the fishery resource.

(b) *The department may not approve a change in appropriation right until all objections are resolved.*

~~(b) Upon receipt of a correct and complete application for a change in purpose of use or place of use from the department of fish, wildlife, and parks, the department shall publish notice of the application as provided in 85-2-307. Parties who believe that they may be adversely affected by the proposed change in appropriation right may file an objection as provided in 85-2-308. A change in appropriation right may not be approved until all objections are resolved. After resolving all objections filed under 85-2-308, the department shall authorize a change of an existing appropriation right for the purpose of protecting, maintaining, or enhancing streamflows to benefit the fishery resource if the applicant submits a correct and complete application and meets the requirements of 85-2-402.~~

~~(c)~~ (c) The application for a change in appropriation right authorization must include specific information on the length and location of the stream reach in which the streamflow is to be protected, maintained, or enhanced and must provide a detailed streamflow measuring plan that describes the points where and the manner in which the streamflow must be measured.

~~(d)~~ (d) The maximum quantity of water that may be changed to instream flow is the amount historically diverted. However, only the amount historically consumed, or a smaller amount if specified by the department in the change in appropriation right authorization, may be used to protect, maintain, or enhance streamflows below the point of diversion that existed prior to the change in appropriation right.

~~(e)~~ (e) A lease for instream flow purposes may be entered for a term of up to 10 years, except that a lease of water made available from the development of a water conservation or storage project may be for a term equal to the expected life of the project but not more than 30 years. All leases may be renewed an indefinite number of times but not for more than 10 years for each term. Upon receiving notice of a lease renewal, the department shall notify other appropriators potentially affected by the lease and shall allow 90 days for submission of new evidence of adverse effects to other water rights. A change in appropriation right authorization is not required for a renewal unless an appropriator other than an appropriator described in subsection ~~(3)~~ (i) submits evidence of adverse effects to the appropriator's rights that has not been considered previously. If new evidence is submitted, a change in appropriation right authorization must be obtained according to the requirements of 85-2-402.

~~(f)~~(f) The department may modify or revoke the change in appropriation right authorization up to 10 years after it is approved if an appropriator other than an appropriator described in subsection ~~(3)(t)~~ (3)(i) submits new evidence not available at the time the change in appropriation right was approved that proves by a preponderance of evidence that the appropriator's water right is adversely affected.

~~(g)~~(g) The priority of appropriation for a lease or change in appropriation right under this section is the same as the priority of appropriation of the right that is changed to an instream flow purpose.

~~(h)~~(h) Neither a change in appropriation right nor any other authorization is required for the reversion of a leased appropriation right to the lessor's previous use.

~~(i)~~(i) A person issued a water use permit with a priority of appropriation after the date of filing of an application for a change in appropriation right authorization under this section may not object to the exercise of the changed water right according to its terms or to the reversion of a leased appropriation right to the lessor according to the lessor's previous use.

~~(j)~~(j) The department of fish, wildlife, and parks shall pay all costs associated with installing devices or providing personnel to measure streamflows according to the measuring plan required under this section.

(4) (a) The department of fish, wildlife, and parks shall complete and submit to the department, commission, and water policy committee established in 5-5-231 a biennial progress report by December 1 of odd-numbered years. This report must include a summary of all appropriation rights changed to an instream flow purpose in the last 2 years.

(b) For each change in appropriation right to an instream flow purpose, the report must include a copy of the change authorization issued by the department and must address:

- (i) the length of the stream reach and how it is determined;
- (ii) critical streamflow or volume needed to protect, maintain, or enhance streamflow to benefit the fishery resource;
- (iii) the amount of water available for instream flow as a result of the change in appropriation right;
- (iv) contractual parameters, conditions, and other steps taken to ensure that each change in appropriation right does not harm other appropriators, particularly if the stream is one that experiences natural dewatering; and
- (v) methods used to monitor use of water under each change in appropriation right.

(5) This section does not create the right for a person to bring suit to compel the renewal of a lease that has expired.

~~(6) (a) From May 8, 2007, through June 30, 2019, the~~ *From May 8, 2007, through June 30, 2029, the* department of fish, wildlife, and parks may change, pursuant to this section, the appropriation rights that it holds in fee simple to instream flow purposes on no more than 12 stream reaches.

~~(b) After June 30, 2019, the department of fish, wildlife, and parks may not change the appropriation rights that it holds in fee simple to instream flow purposes on any stream reaches.~~

~~(7) After June 30, 2019, the department of fish, wildlife, and parks may not enter into any new lease agreements pursuant to this section or renew any leases that expire after that date.~~

(b) After June 30, 2029, the department of fish, wildlife, and parks may not change the appropriation rights that it holds in fee simple to instream flow purposes on any stream reaches.

(7) After June 30, 2029, the department of fish, wildlife, and parks may not enter into any new lease agreements pursuant to this section or renew any leases that will expire after that date.”

Section 2. Effective date. [This act] is effective on passage and approval.

Approved May 13, 2019

CHAPTER NO. 486

[SB 352]

AN ACT IMPLEMENTING THE PROVISIONS OF THE GENERAL APPROPRIATIONS ACT; GENERALLY REVISING LAWS RELATED TO THE STATE BUDGET; TRANSFERRING FUNDS; PROVIDING COORDINATION INSTRUCTIONS FOR A GENERAL FUND TRANSFER TO THE STATEWIDE PUBLIC SAFETY COMMUNICATIONS SYSTEM ACCOUNT AND AN APPROPRIATION IN THE GENERAL APPROPRIATIONS ACT; PROVIDING COORDINATION INSTRUCTIONS REMOVING RESIDENT MOTOR VEHICLE REGISTRATION FEES FROM AQUATIC INVASIVE SPECIES FUNDING AND AN APPROPRIATION IN THE GENERAL APPROPRIATIONS ACT; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Transfer of funds. By August 15, 2019, the state treasurer shall transfer \$100 from the general fund to the state special revenue fund established in 1-11-301.

Section 2. Coordination instruction. If [this act], [House Bill No. 2], and [House Bill No. 694] are passed and approved, then:

(1) Section 44-4-1607, MCA, must be amended as follows:

“44-4-1607. Statewide public safety communications system account. (1) There is an account in the state special revenue fund established in 17-2-102 to be known as the statewide public safety communications system account.

(2) There must be deposited in the account:

(a) money received from legislative allocations *and general fund transfers*;
(b) a transfer of money from a state or local agency for the purposes of this part;

(c) rates, charges, or fees collected by the department in accordance with 44-4-1606(3)(h);

(d) funds accepted in accordance with 44-4-1606(3)(i) and (3)(j); and

(e) a gift, donation, grant, legacy, bequest, or devise made for the purposes of this part.

(3) There is an account in the federal special revenue fund established in 17-2-102 to be known as the statewide public safety communications system account. There must be deposited in the account money received from the federal government for the purposes of this part.

(4) For each fiscal year beginning July 1, 2019, and ending June 30, 2029, there is transferred \$3.75 million from the state general fund to the state special revenue account provided for in this section.

~~(4)~~(5) Funds in either account created in this section must be used by the department for the purposes of this part.”; and

(2) [House Bill No. 2] is amended to include a new section that reads:

“NEW SECTION. Section 13. Appropriations. There is appropriated \$3,750,000 to the department of justice from the state special revenue account

provided for in 44-4-1607 for each fiscal year beginning July 1, 2019, and ending June 30, 2021, for the purpose of upgrading and maintaining the existing public safety radio system infrastructure for the benefit of all law enforcement agencies statewide. It is the intent of legislature that this appropriation be included in the base budget for the 2023 biennium.”

Section 3. Coordination instruction. If [this act], [House Bill No. 2], [House Bill No. 411], and [House Bill No. 694] are passed and approved, then:

(1) [section 4 of House Bill No. 411], amending 61-3-321, is void and the references to 61-3-321 in [sections 6 and 7 of House Bill No. 411], amending 80-7-1004, are stricken; and

(2) [House Bill No. 2] is amended to include a new section that reads:

“*NEW SECTION. Section 14. Appropriations.* There is appropriated from the general fund to the department of fish, wildlife, and parks \$283,620 in the fiscal year beginning July 1, 2019, and \$398,625 in the fiscal year beginning July 1, 2020, to supplement aquatic invasive species prevention programs.”

Section 4. Effective date. [This act] is effective July 1, 2019.

Approved May 13, 2019

RESOLUTIONS

Adopted by the

SIXTY-SIXTH LEGISLATURE
IN REGULAR SESSION

Held at Helena, the Seat of Government
January 7, 2019, through April 25, 2019

COMPILED BY MONTANA
LEGISLATIVE SERVICES DIVISION

House Joint Resolutions

HOUSE JOINT RESOLUTION NO. 3

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM LEGISLATIVE STUDY ON ACCESSIBILITY FOR ELECTORS WITH DISABILITIES.

WHEREAS, the State Administration and Veterans' Affairs Interim Committee during the 2017-2018 interim learned about accessible voting technology for electors with disabilities and conducted a preliminary review of related state statutes; and

WHEREAS, the preliminary review revealed that Montana statutes could be updated with respect to federal law references and statutory language concerning accessible voting machines and technology; and

WHEREAS, the review also raised significant policy questions about how to improve accessibility for electors with disabilities; and

WHEREAS, an interim study would allow for a systematic review of federal and state laws concerning accessibility for electors with disabilities and a careful examination of related policy issues with the participation of all interested stakeholder groups.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to:

(1) examine federal and state laws related to accessibility for electors with disabilities;

(2) solicit and consider comments, concerns, and suggestions from all interested stakeholder groups, including but not limited to the elections staff in the Office of the Secretary of State, the Office of Public Instruction, election administrators, counties, school districts, elderly electors, and electors with disabilities;

(3) identify and analyze relevant policy and logistical issues and options; and

(4) if appropriate, develop a committee bill to update or revise related state laws based on the committee's study findings and recommendations.

BE IT FURTHER RESOLVED, that all aspects of the study be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted February 20, 2019

HOUSE JOINT RESOLUTION NO. 4

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT THE FEDERAL GOVERNMENT TAKE ACTION TO PROTECT INTERSTATE AND FOREIGN COMMERCE AND MONTANA'S RIGHT TO EXPORT COAL.

WHEREAS, coal is a critical source of income to the fiscal health of Montana and for the provision of basic services necessary for the health and well-being of its citizens; and

WHEREAS, it is imperative to ensure that no single state can engage in a pattern of discrimination that results in control over any other state's ability to engage in a lawful activity involving interstate or foreign commerce; and

WHEREAS, the state of Washington is violating the Dormant Foreign and Domestic Commerce Clauses of the United States Constitution and interfering with the free trade of other states, something anathema to the founding principles of our nation; and

WHEREAS, since 2012, Lighthouse Resources, Inc., a vertically integrated coal production, transportation, and export company, has sought to develop the Millennium Bulk Terminal Port Facility in Longview, Washington, on the Columbia River; and

WHEREAS, the state of Washington has denied permits for the project and discriminated against Lighthouse's project because it involves coal, preventing Montana from engaging in foreign and interstate commerce and depriving Lighthouse and its subsidiaries of an economic opportunity and prospective investment; and

WHEREAS, "the Commerce Clause of the United States Constitution, Article I, Section 8, prohibits states from discriminating against interstate commerce, and bars regulations that, although facially nondiscriminatory, unduly burden interstate commerce" according to *National Association for the Advancement of Multijurisdiction Practice v. Berch*, 773 F.3d 1037, 1048 (9th Cir. 2014); and

WHEREAS, no state should force on other states its policy preferences regarding the use of coal as a source of fuel and impede the free flow of commerce.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the 66th Legislature of the State of Montana urges the federal government to:

(1) uphold the Constitution and take action so that the one state does not impede commerce and impact the economic and fiscal interests of states that seek to export commodities, including coal, to foreign markets; and

(2) protect all states and ensure that no single state can erect barriers to trade and economic activity.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Speaker of the United States House of Representatives, the majority leader of the United States Senate, the minority leader of the United States Senate, the minority leader of the United States House of Representatives, and all three members of Montana's Congressional Delegation.

Adopted March 12, 2019

HOUSE JOINT RESOLUTION NO. 10

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO IDENTIFY AND ADDRESS BARRIERS TO VOTING BY MONTANA NATIVE AMERICANS WHILE ENSURING ELECTION SECURITY.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate the State-Tribal Relations Committee, pursuant to section 5-5-217, MCA, to study barriers to voting by Montana Native Americans and how those findings can be addressed in Montana election laws and procedures.

BE IT FURTHER RESOLVED, that the study:

(1) examine existing deadlines and procedures for Montana elections, including requirements for physical addresses and identification, and any obstacles to those requirements on reservations in Montana;

(2) analyze options for addressing any barriers while ensuring election security;

(3) review mail ballot requirements and options, and the impact of those requirements on reservations; and

(4) consider any other matters relating to voting by Montana Native Americans that the committee deems appropriate.

BE IT FURTHER RESOLVED, that the State-Tribal Relations Committee request the participation of stakeholders in the study process, including election administrators, representatives from each of the tribal governments in Montana, and other interested parties as determined by the committee.

BE IT FURTHER RESOLVED, that the State-Tribal Relations Committee in conducting the study visit reservations in Montana.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by the State-Tribal Relations Committee.

BE IT FURTHER RESOLVED, that the committee provide progress reports and a final report to the State Administration and Veterans' Affairs Interim Committee.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the committee, be reported to the 67th Legislature.

Adopted April 12, 2019

HOUSE JOINT RESOLUTION NO. 12

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO ASSESS THE STATE'S ABILITY TO DEFEND ITS INFRASTRUCTURE, DEVELOP GUIDELINES FOR INFRASTRUCTURE PROTECTION, INVESTIGATE AND CONSIDER NEW ADVANCED TRANSMISSION TECHNOLOGIES THAT OFFER PERFORMANCE BENEFITS WHEN REPLACING AGED TRANSMISSION INFRASTRUCTURE, AND ANALYZE ECONOMIC OPPORTUNITIES.

WHEREAS, Montana's electric transmission grid serves the vital function of moving power from many different generating plants to customers and their electric loads; and

WHEREAS, the state has taken steps to ensure the reliability of the transmission grid, but the grid is not currently able to withstand major electromagnetic pulse, terrorism, or wildfire events; and

WHEREAS, failure of the transmission system could cause disruptions to the state's infrastructure, creating adverse impacts to the health, safety, and economy of the state; and

WHEREAS, Montana routinely experiences large wildfires that pose risks not only to homes and businesses but also to electrical transmission lines; and

WHEREAS, a better understanding of the grid can allow for future economic developments; and

WHEREAS, Montana's energy grid is an important component of the state's economy; and

WHEREAS, new and advanced replacement transmission facilities can be designed and deployed to enable a wide variety of new generating resources and can address technical issues that could impede or limit the development and operation of resources so states can achieve public policy goals; and

WHEREAS, crowded and aged utility corridors often allow little room for expansion and innovation.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to assess the state's transmission infrastructure, including:

- (1) its ability to withstand attacks such as electromagnetic pulse, terrorism, and wildfire;
- (2) opportunities to develop transmission infrastructure to export energy; and
- (3) the costs of maintenance and updates to the system.

BE IT FURTHER RESOLVED, that the study:

- (1) gather, analyze, and assess data related to the current condition of the state's infrastructure, with primary focus on the electrical transmission grid;
- (2) identify key weaknesses in defending the state's infrastructure against natural and manmade threats;
- (3) evaluate new advanced transmission technologies to determine whether they are best able to cost-effectively ensure the continued reliable delivery of electricity while providing greater capacity and enhanced efficiency;
- (4) consider the ability of new advanced technologies to reduce the overall cost of energy delivery;
- (5) analyze the costs and benefits of the appropriate use of cost-effective advanced electric transmission technologies in support of the continued, timely provision of affordable, reliable electricity to consumers;
- (6) identify economic opportunities to upgrade the system to address bottlenecks or limitations and economic opportunities to export Montana energy resources;
- (7) assess maintenance and upgrade costs to fully utilize transmission;
- (8) assess the viability of installing black start diesel generators in more hydroelectric dams; and
- (9) determine actionable steps the state can take to harden and protect the electrical transmission grid from electromagnetic pulse occurrences, terrorist attacks, and wildfires.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 18, 2019

HOUSE JOINT RESOLUTION NO. 14

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF THE FUTURE OF THE MONTANA WATER COURT; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 67TH LEGISLATURE.

WHEREAS, the Montana Supreme Court finally recognized the prior appropriation doctrine in 1921, providing a system for water distribution and an important private property right; and

WHEREAS, the 1973 Montana Water Use Act created an adjudication process to centralize a system of water right administration and to determine many undefined water rights; and

WHEREAS, the 1979 Legislature created the Montana Water Court to conduct the litigation phase of adjudication and to issue final decrees, which determine the priority dates and flow rates for all water claimed before 1973; and

WHEREAS, the Montana Water Court will have a diminished role after decrees are issued for all of the state's 85 hydrologic basins, which is estimated to be 2028; and

WHEREAS, the Montana Water Court, its judges, and its water masters retain a broad depth of historical and contemporary knowledge of water rights in Montana, and it may be wise to retain such expertise for future decades of water right administration in Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to review the future role of the Montana Water Court and, if possible, make recommendations for the Water Court.

BE IT FURTHER RESOLVED, that the study consider:

(1) reports and analyses related to the Water Court, and the adjudication, permitting, and change of water right processes;

(2) input from the Water Court, state agencies, water users, and others involved in the change process;

(3) similar courts in other arid western states; and

(4) other relevant information.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 3, 2019

HOUSE JOINT RESOLUTION NO. 17

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE UNITED STATES CONGRESS TO ENACT LEGISLATION THAT ENABLES FEDERAL AGENCIES TO SUPPORT STATES' EFFORTS TO COMBAT AQUATIC INVASIVE SPECIES.

WHEREAS, eradication of aquatic invasive species is a matter of national concern, transcending state lines; and

WHEREAS, the presence and spread of quagga and zebra mussels, collectively referred to as dreissenid mussels, is a matter of growing and alarming concern in the West; and

WHEREAS, shipping vessels from Eastern Europe introduced dreissenids to the United States in the Great Lakes region in the 1980s; and

WHEREAS, mussels have now spread to more than 30 states, including Montana, after tests confirmed the presence of mussel larvae in Tiber Reservoir in 2016; and

WHEREAS, in its 5-year lifetime, a single quagga or zebra mussel produces about 5 million eggs, 100,000 of which reach adulthood, in turn producing half a billion offspring total; and

WHEREAS, mussels spread, in large part and across state lines, by attaching to exposed hard surfaces or catching a ride in ballast water and being transported from water body to water body; and

WHEREAS, it is paramount to prevent the spread of invasive mussels to uninfested waterways, especially the Columbia River Basin -- the last major uninfested water system in the continental United States -- where it is estimated the annual cost of addressing an established population of dreissenids would be almost \$500 million; and

WHEREAS, a recent economic impact study conducted by the University of Montana Flathead Biological Station found Montana's economy could see more than \$230 million in annual mitigation costs and lost revenue if dreissenids become established in the state; and

WHEREAS, the application of effective inspection and decontamination practices as watercraft leave infested waters is the first, best, and most cost-effective line of defense against the proliferation of dreissenids; and

WHEREAS, many western states, including Montana, are leading the fight by enacting laws to establish watercraft inspection and decontamination programs within their boundaries.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the United States Congress be urged to enact legislation that:

(a) requires consultation with states and tribes regarding the location of watercraft inspection stations for the highest likelihood of preventing the spread of aquatic invasive species at and from federal water bodies;

(b) requires assistance to be provided to states for rapid response to any aquatic invasive species infestation; and

(c) provides funding to states for watercraft inspection stations and aquatic invasive species control projects to prevent the spread of aquatic invasive species into and out of federal water bodies.

(2) That the Secretary of State send a copy of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the Majority Leader of the United States Senate, each member of the Montana Congressional Delegation, the secretaries of the United States Department of the Interior and Department of Agriculture, the directors of the United States Bureau of Land Management and the National Park Service, the commissioner of the United States Bureau of Reclamation, and the chief of the United States Forest Service.

Adopted April 8, 2019

HOUSE JOINT RESOLUTION NO. 18

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE FISH AND WILDLIFE COMMISSION TO ENHANCE ITS REGULATIONS FOR ELK MANAGEMENT AND SHOULDER SEASONS.

WHEREAS, in 2018, 64.5% of the elk management units with an established population objective were over objective; and

WHEREAS, hunters are the best and most cost-effective management tool to maintain elk populations at objective; and

WHEREAS, many Montana families rely on hunting opportunities for subsistence; and

WHEREAS, food banks in Montana rely on donations of game meat from hunters who are able to share their harvest; and

WHEREAS, increasing hunter opportunities on private lands in management units where populations are over objective is important for reducing game damage on private property, moving elk toward population objectives, building and improving relationships between landowners and hunters, and helping to disperse elk onto public lands; and

WHEREAS, there are changes the Montana Fish and Wildlife Commission could make to elk management and shoulder season regulations to enhance these outcomes.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the 66th Legislature of the State of Montana urges the Montana Fish and Wildlife Commission to enhance elk management and shoulder season regulations by:

(1) opening performance-based shoulder seasons in hunting districts where elk populations are above objective on August 15 and closing them no earlier than the second Sunday in February;

(2) including public lands adjacent to private lands enrolled in a shoulder season;

(3) publishing a list of landowners participating in a shoulder season;

(4) allowing general elk licenses to be used to harvest antlerless elk during shoulder seasons and providing liberal numbers of antlerless elk B tags and opportunities to acquire those tags in hunting districts that are over objective;

(5) allowing hunters to purchase multiple antlerless elk B tags, subject to any statutory limit, to maximize the number of hunters that may harvest multiple elk during a shoulder season;

(6) updating the 2005 elk management plan to incorporate contemporary elk management data, tools, and regulations;

(7) completing the evaluation of performance-based elk shoulder seasons and making necessary adaptive changes to facilitate managing elk populations at objective;

(8) simplifying regulations and making them consistent across hunting districts as much as possible, including elk shoulder season dates; and

(9) working with landowners to support access to elk during hunting seasons and developing tools in response to landowner needs.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to each member of the Montana Fish and Wildlife Commission and the director of the Department of Fish, Wildlife, and Parks.

Adopted April 2, 2019

HOUSE JOINT RESOLUTION NO. 20

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA STRONGLY SUPPORTING THE UNITED NATIONS' PROCLAMATION OF 2019 AS THE INTERNATIONAL YEAR OF INDIGENOUS LANGUAGES.

WHEREAS, Montana is committed in its educational goals to the preservation of American Indian cultural integrity; and

WHEREAS, language in the form of spoken, written, or sign language is foundational to cultural integrity; and

WHEREAS, Montana tribal languages and the languages of other Indigenous peoples around the United States and world are endangered by the loss of native speakers, writers, and signers; and

WHEREAS, there is an urgent need to continue to preserve, promote, and revitalize endangered Indigenous languages to not only ensure their transmittal to future generations but also the transmittal of Indigenous histories, oral traditions, philosophies, writing systems, and literature.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the 66th Legislature of the State of Montana strongly supports the United Nations' proclamation of 2019 as the International Year of Indigenous Languages to draw attention to the critical loss of Indigenous languages and the urgent need to preserve, revitalize, and promote them, including as an educational medium, at national and international levels.

BE IT FURTHER RESOLVED, that the 66th Legislature is committed to the continued preservation of tribal languages in Montana and urges all state agencies to take appropriate steps, when applicable, to support the preservation, revitalization, and promotion of these valued languages and cultures.

BE IT FURTHER RESOLVED, that the secretary of state send a copy of this resolution to the secretary-general of the United Nations, the United States ambassador to the United Nations, each tribal government located on the seven Montana reservations and the Little Shell Chippewa tribe, the governor of Montana, and the head of each state agency in Montana.

Adopted April 8, 2019

HOUSE JOINT RESOLUTION NO. 23

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM LEGISLATIVE STUDY OF THE STRUCTURE, FUNDING, AND OUTREACH OF THE MONTANA VETERANS' AFFAIRS DIVISION OF THE DEPARTMENT OF MILITARY AFFAIRS.

WHEREAS, more than 98,000 veterans live in Montana, which is more than 9% of our state's total population; and

WHEREAS, our veterans and their families rely on the state-level Montana Veterans' Affairs Division of the Department of Military Affairs (MVAD) to help veterans submit claims to access the U.S. Department of Veterans Affairs benefits and health care services to which they are entitled; and

WHEREAS, outreach is critical and the MVAD has only nine state veteran service offices to service the entire state; and

WHEREAS, examination of how many veterans MVAD actually reaches and services county-by-county will provide the Legislature with insight and a better understanding of the opportunities and challenges involved; and

WHEREAS, for fiscal year 2019, the Legislature appropriated \$1,180,298 in general fund and \$835,373 in special revenue for the MVAD's services, not including for cemeteries, and the Legislature should evaluate whether this is sufficient to meet the need; and

WHEREAS, other models for delivering veteran benefit claims services, including community-based county offices, should be explored; and

WHEREAS, a legislative interim study would also help determine how to improve outreach and increase the number of veterans served.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to:

(1) gather information about the current organizational structure, funding, number of veterans served, and outreach efforts of the Montana Veterans' Affairs Division;

(2) evaluate other service delivery models, such as county-based models and the service structures used in other states;

(3) examine options for improving outreach and increasing the number of veterans served, including in Indian country;

(4) solicit input and recommendations from the Board of Veterans' Affairs, counties, veterans and their families, and all other stakeholders and interested persons about how to maintain and improve the services of the Montana Veterans' Affairs Division; and

(5) develop recommendations as appropriate based on the study's findings.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 12, 2019

HOUSE JOINT RESOLUTION NO. 24

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA COMMEMORATING THE FOUNDING OF THE AMERICAN LEGION AND RECOGNIZING THE MANY CONTRIBUTIONS OF THE MONTANA DEPARTMENT OF THE AMERICAN LEGION IN OUR STATE.

WHEREAS, on Veterans' Day, 2018, at the eleventh hour of the eleventh day of the eleventh month, the world commemorated the 100th anniversary of the armistice ending the fighting in World War I; and

WHEREAS, World War I veterans registering concern over the care of those returning from the battlefields delineated plans for the development of a veterans' association, resulting in the Paris Caucus held on March 15, 1919, and the birth of The American Legion; and

WHEREAS, the Paris Caucus resulted in a declaration of basic tenets that ultimately became the preamble of the constitution for The American Legion, which declares that The American Legion is "a patriotic organization dedicated to serve God and country"; and

WHEREAS, as a primary catalyst for the Paris Caucus, Lt. Col. Theodore Roosevelt Jr. became known as the father of The American Legion; and

WHEREAS, we also acknowledge that there was one Montanan in attendance at the Paris Caucus, Walter L. Verge of Choteau; and

WHEREAS, a call by local Montana veterans' associations for a state organizational meeting resulted in the convening of the Helena Caucus on March 4, 1919, with delegates from across the state; and

WHEREAS, the Helena Caucus urged that the governor appoint a Veterans' Welfare Commission to be headquartered in Helena, which is now known as the state Board of Veterans' Affairs, which oversees the Montana Veterans' Affairs Division; and

WHEREAS, Malta was chosen as the location for the first annual state convention of the World War Veterans of Montana, which was held on June 30 and July 1, 1919; and

WHEREAS, convention business based on the four pillars of supporting veterans, Americanism, national defense, and children and youth included choosing to rename the World War Veterans of Montana to The American Legion of Montana;

WHEREAS, the Montana Department of The American Legion has for the past 100 years been a positive force in communities throughout the state by promoting citizenship among our youth and continuing to serve Montana veterans and their families.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the years 2019 and 2020 be recognized as the Centennial of the Montana Department of The American Legion and that communities across Montana be encouraged to recognize and celebrate the service and many contributions of the more than 12,000 members of The American Legion in Montana.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to the headquarters of The American Legion, Department of Montana, for distribution to American Legion posts throughout the state.

Adopted April 3, 2019

HOUSE JOINT RESOLUTION NO. 26

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE UNITED STATES CONGRESS TO INCLUDE A CITIZENSHIP QUESTION ON THE 2020 CENSUS.

WHEREAS, congressional apportionment is calculated using the outcome of the decennial census; and

WHEREAS, current congressional apportionment is based on the number of persons living in a district, not the number of citizens; and

WHEREAS, states with high numbers of unauthorized immigrants (California, Texas, and Florida) gained 19 seats in the U.S. House of Representatives since 1980; and

WHEREAS, Montana lost its second U.S. House seat following the 1990 census, leaving Montana's 1.05 million residents with only one seat in the U.S. House of Representatives; and

WHEREAS, the average size of a U.S. House district by population in 2018 was 747,184 residents, making Montana underrepresented in Congress; and

WHEREAS, California has a population of 39.54 million, but an estimated 2.2 million California residents are unauthorized immigrants, giving California three additional seats in the U.S. House of Representatives by counting persons instead of citizens; and

WHEREAS, Americans have a right to an accurate count of not only our nation's citizens but the number of lawful and unlawful immigrants living within our borders; and

WHEREAS, given that the U.S. Constitution requires the "actual enumeration" of "all persons" living in the United States, the decennial census is our best opportunity to count both citizens and persons; and

WHEREAS, a citizenship question appeared on the census until 1950 and appeared on the long-form census from 1970 to 2000 and on the American Community Survey that accompanied the census in 2010.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the United States Congress be urged to include a citizenship question on the 2020 Census.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and to each member of Montana's Congressional Delegation.

Adopted April 8, 2019

HOUSE JOINT RESOLUTION NO. 27

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA COMMEMORATING THE 70TH ANNIVERSARY OF MONTANA'S RECEIPT IN 1949 OF GRATITUDE GIFTS FROM THE PEOPLE OF FRANCE DELIVERED IN A BOXCAR KNOWN AS THE 40 & 8 MONTANA MERCI CAR.

WHEREAS, in 1947 the people of France and Italy were still struggling to recover from the devastation of World War II and, after seeing this firsthand, noted columnist and journalist Drew Pearson spearheaded a fundraising campaign to provide them with food, clothing, and other necessities; and

WHEREAS, Americans contributed generously to this purely grassroots effort, filling train cars with an estimated \$40 million in relief supplies and sending the American Friendship Train of 1947 to France; and

WHEREAS, touched by this response to their needs, the French people answered with a program of their own, the French Merci Train of 1949, the idea originating with Andre Picard, a veteran and railroad employee, who suggested that a boxcar be filled with gifts from every part of France and sent to the United States as a gesture of gratitude; and

WHEREAS, it soon became obvious that a single boxcar, known as a “40 et 8” because it could hold 40 men or 8 horses and was the type of boxcar used to transport thousands of American GIs during both World Wars, would not be enough for the tens of thousands of gratitude gifts from French citizens; and

WHEREAS, the French War Veterans’ Association assumed control of the project and filled 49 of the boxcars, one for each state then in the Union, and one boxcar to be shared by the District of Columbia and the territory of Hawaii; and

WHEREAS, in all, 52,000 gifts weighing 250 tons were collected during 1948, and the 49 Merci Cars were then shipped aboard the freighter Magellan; and

WHEREAS, the ship, with “MERCY AMERICA” adorning its sides, received a royal welcome in New York Harbor on February 3, 1949; and

WHEREAS, on February 16, 1949, Montana’s Merci Car was presented to Governor Robert Bonner, representing the people of Montana, by Paul Lenier, French vice counsel on behalf of the French people, at a ceremony in the State Capitol’s House of Representatives in front of a joint session of the legislative assembly; and

WHEREAS, after the ceremony and ultimate distribution of the boxcar’s contents to Montana’s various counties as well as to the Montana Historical Society library, Montana’s Merci Car sat unceremoniously in the Northern Pacific Railway yards for nearly 10 years largely forgotten and rusting away; and

WHEREAS, Montana’s La Societe des Quarante Hommes et Huit Chevaux (the Society of Forty Men and Eight Horses, also known as the 40 & 8 Society), which was established in 1922, became the advocate for Montana’s Merci Car in the early 1950s; and

WHEREAS, in 1956, the 40 & 8 Society’s leadership approached then Governor J. Hugo Aronson and asked to have Montana’s Merci Car donated to the state’s 40 & 8 Society and displayed in the State Capitol area as a tribute to the veterans and people of Montana; and

WHEREAS, in 1957 a verbal contract was struck with Governor Aronson turning the boxcar over to the 40 & 8 Society and the car was to be set behind the Veterans and Pioneers building in a park for all to see; and

WHEREAS, after necessary repairs, Montana’s Merci Car was placed in a much smaller area behind the Veterans and Pioneers building that in 1976 was redesignated as the Veterans’ Plaza and flags and symbols of the Lewis and Clark expedition were added to the area by the veterans of Montana; and

WHEREAS, in 2001, Montana’s Merci Car was moved to its present site at the Montana Military Museum and is now a premier exhibit at the museum’s outdoors Veterans’ Plaza; and

WHEREAS, Montana’s Merci Car continues to be a resolute symbol of the patriotism, dedication, and sacrifice of many Montana veterans of World War I and World War II and has withstood the ultimate test of surviving and being relevant to their memory.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the 66th Montana Legislature commemorate the 70th Anniversary of the presentation on February 16, 1949, of Montana's Merci Car from the people of France to Governor Robert Bonner in front of a joint session of Montana's legislative assembly representing the people of Montana.

BE IT FURTHER RESOLVED, that Montana's Merci Car be recognized as a grand salute from the people of France to thank the people of Montana for their efforts in providing relief supplies carried by the American Friendship Train of 1947 and as an expression of gratitude to Montana veterans who helped free the people of France in World War I and World War II from the chains of tyranny and with whom we still stand today in recognition of our common bonds of freedom and liberty.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to the Montana Military Museum.

Adopted April 3, 2019

HOUSE JOINT RESOLUTION NO. 28

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE BUREAU OF LAND MANAGEMENT TO DENY THE BISON GRAZING PROPOSAL BY THE AMERICAN PRAIRIE RESERVE.

WHEREAS, the American Prairie Reserve (APR) controls private properties tied to 18 Bureau of Land Management (BLM) grazing allotments in Fergus, Petroleum, Phillips, and Valley counties; and

WHEREAS, the APR has requested that the BLM fundamentally shift long-established grazing practices on the 18 BLM allotments, which encompass 250,000 acres of public property; and

WHEREAS, APR has petitioned to change the allotments from seasonal or rotational grazing to year-round grazing and remove the interior fencing on those allotments; and

WHEREAS, the APR proposes to allow the year-round, continuous grazing of public land by bison, which would impact the future grazing viability of the allotments; and

WHEREAS, the existing BLM designation for managed grazing is what science dictates the rangeland can support; and

WHEREAS, it is the responsibility of the BLM to ensure the future vitality of these public parcels is protected; and

WHEREAS, the removal of interior fences will eliminate the ability of BLM to control the access of bison to certain parcels to shorten grazing permits in response to drought or fire to protect the rangeland.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That it is essential for the preservation of the future viability of Montana's rangeland that the BLM deny the petition by the APR to alter grazing permits on the 18 allotments under the control of APR.

(2) That the denial of the proposed APR grazing permit change is critical for the health of Montana's livestock and wildlife.

(3) That private landowners and communities should not bear the cost of damages incurred by the lack of integrated bison management in the APR's grazing proposal.

(4) That the denial of the APR grazing proposal would protect Montana farmers, ranchers, and communities.

(5) That the BLM should deny the APR bison grazing proposal.

(6) That the Secretary of State send a copy of this resolution to the United States Congress, the Department of the Interior, and the Bureau of Land Management.

Adopted April 8, 2019

HOUSE JOINT RESOLUTION NO. 29

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING A STUDY OF MEAT INSPECTION LAWS; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 67TH LEGISLATURE.

WHEREAS, Congress passed the Meat Inspection Act in 1906 to ensure and provide the public with a safe, wholesome meat supply; and

WHEREAS, the Meat Inspection Act, along with the subsequent Poultry Products Inspection Act and the Humane Methods of Slaughter Act, provide the regulatory basis for Montana's meat inspection program; and

WHEREAS, a study of the relationship between federal and state regulators and Montana meatpackers deserves examination to ensure an appropriate balance between public health and private enterprise.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to examine the regulation of Montana meatpackers and, if possible, make recommendations for the state and federal regulatory systems.

BE IT FURTHER RESOLVED, that the study consider:

- (1) relevant, applicable state and federal laws and rules;
- (2) federal and state inspection practices;
- (3) reports and analyses related to state and federal regulatory procedures;
- (4) input from meatpackers, custom butchers, consumers, meat inspectors, public health officials, and others affected by meat inspection laws; and
- (5) any other relevant information.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 18, 2019

HOUSE JOINT RESOLUTION NO. 31

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF THE TRANSFER OF THE BOARD OF CRIME CONTROL FROM THE DEPARTMENT OF JUSTICE TO THE DEPARTMENT OF CORRECTIONS.

WHEREAS, Senate Bill No. 95 (SB 95) during the 65th Legislature created a Bureau of Crime Control within the Office of the Director of the Department of Corrections; and

WHEREAS, SB 95 also amended section 2-15-2006, MCA, which has since been renumbered as 2-15-2306, MCA, to remove language that allocated the Board of Crime Control to the Department of Justice for administrative purposes only and replaced it with language that allocated the board to the Department of Corrections.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to review the basis for and the legislative history of the transfer of the Montana Board of Crime Control from the Department of Justice to the Department of Corrections.

BE IT FURTHER RESOLVED, that the study evaluate the board's performance before and after the transfer by reviewing:

- (1) the allocation and utilization of grant funds before and after the transfer;
- (2) program evaluations performed on board grantees;
- (3) whether the board has applied for discretionary grant money between 2014 through 2019 and the outcomes of those applications;
- (4) the number and type of vacant positions before and after the transfer, including whether the board has adequate staff to seek, distribute, and administer grant funds and deliver other required services;
- (5) changes to the authority of board members;
- (6) the executive branch agencies that serve as the state administering agency for similar grant programs in other states to determine how Montana's organization compares;
- (7) whether the board has fully allocated all grant dollars available to it; and
- (8) any other aspects of the transfer relevant to a better understanding of the function of the board and the results of the transfer.

BE IT FURTHER RESOLVED, that the interim committee determine whether:

- (1) the current organizational structure of the board meets the intent of SB 95;
- (2) the board has experienced any loss of functions attributable to the transfer;
- (3) there is any difference in the ability of the board regarding formula and discretionary grant allocation; and
- (4) the current configuration of the board and its decisions are more or less likely to control crime.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 18, 2019

HOUSE JOINT RESOLUTION NO. 32

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF WAYS TO PREVENT PRENATAL DRUG USE AND MITIGATE THE EFFECTS OF NEONATAL ABSTINENCE SYNDROME; AND REQUIRING THAT FINAL RESULTS OF THE STUDY BE REPORTED TO THE 67TH LEGISLATURE.

WHEREAS, babies who are exposed to certain drugs in the womb, including opioids, may suffer the effects of withdrawal in a condition known as neonatal abstinence syndrome; and

WHEREAS, these infants often are also at risk for low birth weights or other complications at birth; and

WHEREAS, a recent National Institute on Drug Abuse analysis concluded that the incidence of neonatal substance abuse increased five-fold from 2004 to 2014; and

WHEREAS, the same analysis showed that \$563 million was spent in 2014 to treat 32,000 babies born with neonatal abstinence syndrome, with more than 80% of those costs paid through state Medicaid programs; and

WHEREAS, the 2017 Montana State Health Assessment by the Department of Public Health and Human Services reported that the rate of neonatal abstinence syndrome births in Montana increased from 1.7 per 1,000 live births in 2006 to 8.6 per 1,000 live births in 2015; and

WHEREAS, drug use during pregnancy may result in the need not only for specialized health care services but also in an increased need for social services, including foster care services for drug-exposed children.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to study best practices for reducing opioid and other drug use by pregnant women and the occurrence of neonatal abstinence syndrome in newborns.

BE IT FURTHER RESOLVED, that the study examine:

- (1) the prevalence of neonatal abstinence syndrome in Montana;
- (2) whether certain areas of the state or certain populations experience a greater-than-average prevalence of neonatal abstinence syndrome;
- (3) the short-term and long-term effects that prenatal exposure to opioids and other drugs has on children and on a family's need for both health care and social services;
- (4) efforts being undertaken in Montana communities and in other states to decrease opioid use by pregnant women and to mitigate the effects of opioid withdrawal in infants; and
- (5) best practices for approaching the health problems caused by the use of opioids or illicit drugs during pregnancy and neonatal abstinence syndrome.

BE IT FURTHER RESOLVED, that the study determine whether practices in use in Montana communities or in other states could be effectively replicated to reduce the prevalence and effects of the use of opioids or illicit drugs by pregnant women throughout Montana.

BE IT FURTHER RESOLVED, that the study include representatives of the department of public health and human services, local county health departments, hospitals, health care providers, substance use disorder treatment providers, and other parties interested in preventing prenatal drug use and in mitigating the effects of neonatal abstinence syndrome.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 25, 2019

HOUSE JOINT RESOLUTION NO. 34

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF WAYS TO IMPROVE PASSENGER TRANSPORTATION SERVICE IN MONTANA; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 67TH LEGISLATURE.

WHEREAS, passenger rail, air, and bus services provide mobility for senior citizens, persons with disabilities, students, tourists, and business people; and

WHEREAS, some communities in Montana are poorly served by public transportation, and options for passenger transportation services in Montana continue to decline; and

WHEREAS, if state services are unavailable, many Montanans need local, tribal, or county transportation services for help getting to appointments for medical or other physical needs; and

WHEREAS, Amtrak's North Coast Hiawatha ceased operation through southern Montana in 1979, and transportation to and from the major population centers of southern Montana would be greatly enhanced by passenger rail service; and

WHEREAS, additional passenger transportation services will increase passenger transportation-related employment because of the need for upgraded infrastructure and operating personnel; and

WHEREAS, tourism is Montana's second-largest industry and would be enhanced by improved passenger transportation services; and

WHEREAS, the Empire Builder is one of the most popular long-distance passenger trains in the United States, and it is greatly needed for the citizens of Montana's Hi-Line who have limited public transportation options but is challenged by lack of rail capacity causing frequent delays; and

WHEREAS, there is currently no board or commission within the state of Montana that is charged with the sole responsibility of overseeing and advocating for passenger transportation services, including passenger rail, passenger air, and passenger bus services; and

WHEREAS, autonomous vehicles may provide one option for transportation needs in Montana in the future, and more study is needed to determine whether laws need changing to accommodate autonomous vehicles and whether policies are necessary to address safety, licensing, and other issues of public concern.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to investigate ways to improve passenger transportation services in Montana, including but not limited to the establishment of a passenger transportation commission and a review of laws that may need changing to allow use of autonomous vehicles and provide for public safety.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 18, 2019

HOUSE JOINT RESOLUTION NO. 35

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING A REVENUE AND TRANSPORTATION INTERIM COMMITTEE STUDY OF MONTANA'S STATE AND LOCAL TAX SYSTEMS USING A SUBCOMMITTEE THAT INCLUDES NONLEGISLATIVE MEMBERS.

WHEREAS, a comprehensive study of the state and local tax system has not been undertaken in many years; and

WHEREAS, the Montana economy is changing, and commerce is increasingly taking place on the Internet; and

WHEREAS, the state's increasing population and changing demographics impact the state tax system; and

WHEREAS, the 66th Legislature considered multiple pieces of legislation to revise state and local taxes; and

WHEREAS, a study of the state's tax policies should include legislators and nonlegislators that represent a broad array of stakeholders and provide opportunity for public involvement.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate that the revenue and transportation interim committee, established in section 5-5-227, MCA, study Montana's state and local tax systems and make recommendations about whether to revise the state's current tax structure to:

- (1) establish a tax structure that works with the current economy;
- (2) stabilize state revenue and reduce volatility;
- (3) promote the long-term economic prosperity of the state and its citizens;
- (4) reflect principles of sound tax policy, including simplicity, competitiveness, efficiency, predictability, stability, and ease of compliance and administration;

- (5) ensure the tax structure is fair and equitable; and

- (6) allow Montana to compete with other states and nations for jobs and investments.

BE IT FURTHER RESOLVED, that the committee be directed to appoint a subcommittee, pursuant to section 5-5-211(7), MCA, to undertake the study for the purpose of including nonlegislative members in the study process. Members of the subcommittee may include but are not limited to:

- (1) a representative of city government;
- (2) a representative of county government;
- (3) a representative of a school district;
- (4) a tax policy expert;

- (5) an infrastructure expert;
- (6) a representative of business or industry;
- (7) an economist or other academic with tax policy expertise; and
- (8) a representative of the department of revenue as a nonvoting member.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 25, 2019

HOUSE JOINT RESOLUTION NO. 36

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF APPROPRIATE COMPENSATION FOR WRONGFULLY CONVICTED INDIVIDUALS; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORT TO THE 67TH LEGISLATURE.

WHEREAS, wrongfully convicted persons have been unjustly deprived of their lives and liberty by the state; and

WHEREAS, wrongfully convicted persons often spend decades in prison for crimes they did not commit, sacrificing time with their families and communities; and

WHEREAS, wrongfully convicted persons suffer financially, including losing income, assets, and opportunities to build careers and establish savings; and

WHEREAS, wrongfully convicted people who are exonerated face unique challenges when reentering society; and

WHEREAS, upon release, exonerees need immediate services, including housing, health care, and transportation; and

WHEREAS, state compensation laws that provide a fixed monetary award for each year of wrongful conviction can assist exonerees in rebuilding their lives; and

WHEREAS, 33 states, the federal government, and the District of Columbia have enacted statutes to compensate exonerees; and

WHEREAS, 16 states, the federal government, and the District of Columbia provide exonerees with \$50,000 or more for each year of wrongful incarceration; and

WHEREAS, Montana enacted section 53-1-214, MCA, in 2003 to provide educational aid at the state's expense to wrongfully convicted persons exonerated with postconviction DNA testing but the law has not been funded; and

WHEREAS, Montana has the only wrongful conviction compensation statute in the country that does not provide for monetary compensation to exonerees.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to:

(1) gather information from experts in the field, stakeholders, and interested persons concerning the appropriate compensation of wrongfully convicted persons;

(2) develop and analyze policy options concerning the appropriate compensation of wrongfully convicted persons;

(3) study compensation plans that rely on funding sources from the bonds of public employees who were directly involved with the wrongful convictions, as well as the county and state agencies that prosecuted the original cases rather than funding from taxes; and

(4) make recommendations about laws that should be enacted in Montana concerning the appropriate compensation of wrongfully convicted persons.

BE IT FURTHER RESOLVED, that the committee's recommendations include:

(1) the amount of fixed monetary compensation that should be provided for each year of wrongful conviction;

(2) eligibility requirements for compensation;

(3) the entity that should adjudicate claims for compensation;

(4) the process for filing and adjudicating claims, including time limits for filing claims;

(5) the entity that should administer the state compensation fund;

(6) interaction between state compensation awards and civil awards stemming from the wrongful conviction;

(7) the source of state funding for claims (e.g. state insurance fund, general revenue fund, etc.);

(8) any additional monetary compensation that should be provided for years spent on death row or on postrelease supervision; and

(9) social services that should be provided to exonerees, such as health care, counseling, and reentry and housing assistance.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 18, 2019

HOUSE JOINT RESOLUTION NO. 38

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF BONDING AND RECLAMATION REQUIREMENTS FOR ENERGY GENERATION FACILITIES.

WHEREAS, bonding requirements for energy generation facilities are important for addressing risks to ground water, surface water, land contamination, and on-site reclamation; and

WHEREAS, it is important to facilitate responsible development of energy resources in Montana while sustaining the health, diversity, and productivity of the property where development occurs.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to:

(1) examine existing state laws related to bonding, decommissioning, and reclamation for energy generation facilities in Montana;

(2) solicit and consider comments, concerns, and suggestions from all interested stakeholder groups;

(3) identify and analyze relevant policy and logistical issues and options; and

(4) if appropriate, develop a committee bill to expand, update, or revise related state laws based on the committee's study findings and recommendations.

BE IT FURTHER RESOLVED, that all aspects of the study be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 18, 2019

HOUSE JOINT RESOLUTION NO. 39

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT THE LEGISLATIVE AUDIT COMMITTEE PRIORITIZE A PERFORMANCE AUDIT OF ADMINISTRATIVE OPERATIONS AND COSTS OF THE TEACHERS' RETIREMENT SYSTEM AND THE MONTANA PUBLIC EMPLOYEES' RETIREMENT ADMINISTRATION FOR POTENTIAL SAVINGS IF ADMINISTRATION WAS COMBINED AND THAT THE LEGISLATIVE AUDITOR PRESENT THE FINDINGS TO THE 67TH LEGISLATURE.

WHEREAS, administration of the Teachers' Retirement System and the systems administered by the Montana Public Employees' Retirement Administration involves similar activities, such as contracting for actuarial services, maintaining information technology systems and infrastructure, receiving contributions, tracking membership and service credits, and paying benefits; and

WHEREAS, both administrative entities have similar operational and personal services needs for accounting and payroll for staff; and

WHEREAS, administrative expenses as reported in the January 2019 financial compliance audit report of the Legislative Audit Division were about \$6.5 million for the Montana Public Employees' Retirement Administration and about \$2.8 million for the Teachers' Retirement System; and

WHEREAS, a deeper examination of these administrative activities and expenses would provide insight into whether there is unnecessary duplication and whether consolidating the administration of the Teachers' Retirement System and the Montana Public Employees' Retirement Administration would produce efficiencies and cost savings and, if so, how much.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Audit Committee be requested to prioritize a performance audit addressing the methods and costs of administering Montana's public employee retirement systems and that the audit include but is not limited to:

(1) examination of the administrative structures and expenses of the Montana Public Employees' Retirement Administration and the Teachers' Retirement System;

(2) evaluation of whether combining the two administrative entities into one would save money or result in other operational efficiencies; and

(3) development of recommendations based on the findings.

BE IT FURTHER RESOLVED, that the final results of the performance audit, including any findings, conclusions, comments, or recommendations be reported to the Legislative Audit Committee and the 67th Legislature.

Adopted April 24, 2019

HOUSE JOINT RESOLUTION NO. 40

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING A STUDY OF WEATHER MODIFICATION LAWS; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 67TH LEGISLATURE.

WHEREAS, weather modification is an environmentally friendly way to generate more precipitation from clouds in the form of rain or snow; and

WHEREAS, weather modification is also known as "cloud seeding" and can improve a cloud's efficiency; and

WHEREAS, weather modification techniques are known to enhance precipitation, suppress damaging hail, and mitigate fog; and

WHEREAS, the technology was developed in the 1940s, and Montana's regulations on the subject date to that time; and

WHEREAS, weather modification has proven to increase snowpack and rainfall under proper administration; and

WHEREAS, Montana's regulatory framework for weather modification needs to be reexamined to allow for increased use of the technique; and

WHEREAS, the Montana Legislature recognizes the importance of robust water supplies and the threat of drought through the efforts of the Water Policy Interim Committee, which may be best suited to conduct this legislative study.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to review current state laws related to weather modification and to propose changes in order to encourage use of this scientific technique.

BE IT FURTHER RESOLVED, that the study consider:

(1) reports and analyses from university, government, and private industry researchers and engineers;

(2) regulatory practices in other states and Canadian provinces;

(3) input from agricultural producers, airport authorities, conservationists, conservation districts, irrigators, practitioners, private industry, researchers, ski resorts, state and local governments, water users, and other potentially affected parties.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 24, 2019

HOUSE JOINT RESOLUTION NO. 43

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF ALTERNATIVE METHODS TO CONDUCT POSTCONVICTION RELIEF HEARINGS AND ANALYZE WHETHER TYPES OF EVIDENCE ARE EQUALLY CONSIDERED WHEN DETERMINING POSTCONVICTION RELIEF; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 67TH LEGISLATURE.

WHEREAS, the criminal justice system has an obligation to the citizens of Montana to utilize the most effective system when conducting postconviction relief hearings and to ensure that all types of evidence are gathered, investigated, and allowed fair consideration in order to secure not only the public's safety but also the due process of those convicted; and

WHEREAS, the judicial system currently lacks oversight of postconviction hearings, and a study of the methods and models available to evaluate the possible exoneration of those convicted of crime could create a stronger, more robust system that allows for the smallest margin of error when reviewing the cases of those persons already convicted by a jury; and

WHEREAS, many other states have instituted task forces or commissions to investigate in a neutral and impartial manner the circumstances of a postconviction case, the admission of new evidence, the strength of evidence submitted during the original trial, and the main reasons the person was originally convicted; and

WHEREAS, jury convictions are often overturned solely on new DNA evidence when more consideration could be given to the possibility that the collection, application, and attribution of DNA evidence may be inherently flawed; and

WHEREAS, DNA evidence may be considered circumstantial evidence and should not have a lesser standard to prove a reasonable probability of a different outcome in postconviction relief requests than other forms of evidence; and

WHEREAS, the judges who preside over postconviction hearings should allow all forms of evidence available to the court that may create a reasonable probability of a different outcome at trial, including all pertinent witness testimony as well as DNA evidence; and

WHEREAS, the equal use and application of various forms of evidence allowed in postconviction hearings benefit from review and evaluation to ensure justice for both the convicted and the victims of crime and their families; and

WHEREAS, the state would benefit from further research to evaluate the real or perceived bias that may exist between different forms of evidence to ensure that rightful persons are released from prison and back into the public.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to study alternative methods to conduct postconviction relief hearings and analyze whether types of evidence are equally considered when determining postconviction relief.

BE IT FURTHER RESOLVED, that the study:

(1) examine alternative methods of conducting postconviction relief hearings, focusing on methods and systems used in other states;

(2) consider the benefits of creating a task force or commission to examine and analyze original evidence and information as well as potential new evidence available at the time of a postconviction hearing;

(3) identify current practices related to evidence collection, consideration, and acceptance into criminal courts of jurisdiction;

(4) review national best practices related to the consideration of DNA evidence in postconviction relief hearings; and

(5) if appropriate, develop a committee bill to address any inefficiencies identified in the committee's findings and recommendations.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 18, 2019

HOUSE JOINT RESOLUTION NO. 45

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA PROVIDING FOR AN INTERIM STUDY OF BICYCLE AND PEDESTRIAN PATHS.

WHEREAS, residents and tourists are attracted to lifelong activities including bicycling and walking; and

WHEREAS, a 2015 survey of Montana residents indicates that 46% of respondents bicycled in the previous year, 48% of bicycling was on paved paths, and only 13% of respondents felt "somewhat safe" or "very safe" when bicycling; and

WHEREAS, bicyclists are utilizing a legal, valid, and recognized mode of transportation and have defined responsibilities and considerations, including a higher need for protection and accommodating infrastructure; and

WHEREAS, bicycle and pedestrian paths are often situated in the rights of way of county and municipal roadways maintained by the Montana Department of Transportation, and funding for maintenance of the paths lacks coordination and alignment; and

WHEREAS, the State of Montana has instituted fee-for-use systems, including activities on Department of Natural Resources and Conservation lands, Fish, Wildlife, and Parks sites, state highways, and snowmobile trails for maintenance and construction of trails.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to study bicycle and pedestrian paths, including:

(1) the purposes for which bicycle and pedestrian paths are used, including but not limited to transportation, recreation, and tourism;
(2) safety implications related to bicycle and pedestrian paths;
(3) economic impacts of bicycle and pedestrian paths;
(4) current levels of funding for bicycle and pedestrian paths provided by the state and local governments;
(5) consideration of funding options; and
(6) how other states and adjacent provinces establish, fund, and manage bicycle and pedestrian paths.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 18, 2019

HOUSE JOINT RESOLUTION NO. 49

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF THE EFFECTS OF MONTANA CHILD PROTECTIVE SERVICES LAWS AND PRACTICES ON LAW ENFORCEMENT AND THE JUDICIAL SYSTEM; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 67TH LEGISLATURE.

WHEREAS, cases involving alleged child abuse and neglect are required by law to be handled within expedited timeframes; and

WHEREAS, the number of district court cases involving child abuse and neglect has increased from 1,006 in calendar year 2009 to 2,519 in 2018; and

WHEREAS, local law enforcement officers are often called upon to assist in child removal when allegations of abuse or neglect are made.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to study the role of law enforcement and the courts in the child protective services system.

BE IT FURTHER RESOLVED, that the study examine:

(1) the effects that child abuse and neglect cases have on local law enforcement officers, county attorneys, and district courts;

(2) the interaction of the Office of the Child and Family Ombudsman with the Department of Public Health and Human Services, law enforcement officials, and the court system;

(3) issues affecting the interaction of the Child and Family Services Division with the judicial system;

(4) the use of court orders in child removal cases;

(5) the historical role of law enforcement officers with the Child and Family Services Division during removal of children from their homes;

(6) whether any changes are needed to ensure the appropriate role of law enforcement officials in cases involving child removal; and

(7) the work being done by groups outside of the legislative and executive branches on issues related to the role of law enforcement and the judicial system in the child protective services system.

BE IT FURTHER RESOLVED, that the study involve representatives of the Department of Public Health and Human Services, the Office of the Child and Family Ombudsman, the Office of State Public Defender, the Court Administrator's Office, the Montana Association of Chiefs of Police, the Montana Sheriffs and Peace Officers Association, the Montana County Attorneys Association, court-appointed special advocates, organizations that advocate on behalf of families and children, families involved in the child protective services system, and other interested parties.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 25, 2019

HOUSE JOINT RESOLUTION NO. 50

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF POLICIES AND PRACTICES RELATED TO SERVICES FOR SENIOR CITIZENS AND PEOPLE WITH PHYSICAL DISABILITIES; AND REQUIRING THE FINAL RESULTS OF THE STUDY TO BE REPORTED TO THE 67TH LEGISLATURE.

WHEREAS, programs in the Senior and Long-Term Care Division of the Department of Public Health and Human Services have undergone changes, including program cuts and changes to policy and policy interpretation, that have affected services and Montanans in the last several years; and

WHEREAS, some of the funding appropriated for the division in recent years has been diverted for other purposes within the department or reverted to the general fund despite the existence of waiting lists for services; and

WHEREAS, it is important for the Legislature to understand the services provided by the division, the factors related to the waiting lists for those services, and the policies and barriers to effectively and efficiently serving individuals on waiting lists and others who use senior and long-term care services.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, to study matters related to the Senior and Long-Term Care Division of the Department of Public Health and Human Services, including:

(1) access to services under the Community First Choice Program, the Personal Assistance Services Program, and the Big Sky Waiver for the elderly and people with physical disabilities, including the availability of both basic and adult residential waiver slots;

(2) barriers that prevent individuals from accessing services and that prevent the division from fully using appropriated funding in the Big Sky Waiver, including but not limited to workforce issues and Medicaid reimbursement rates;

(3) recent changes to the division's policies and interpretations of policy and how the changes have affected the level of services provided to people

served by or eligible for the Community First Choice Program, the Personal Assistance Services Program, and the Big Sky Waiver;

(4) the manner in which waiver slots are created and filled, including the process used to maintain the waiting list for the Big Sky Waiver and select people for services when openings occur;

(5) the status of cuts that were made in services as a result of budget issues in the 2019 biennium and the manner in which funds restored because of budget triggers were used by the department for services provided by the division;

(6) access to aging services programs for seniors of all ages; and

(7) other matters related to senior and long-term care services as determined appropriate to the study.

BE IT FURTHER RESOLVED, that the study include representatives of the Department of Public Health and Human Services, nursing homes, assisted living facilities, organizations representing individuals who receive services provided through the waiver or the division, and individuals and family members affected by department policies involving services for the elderly and the physically disabled.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 25, 2019

HOUSE JOINT RESOLUTION NO. 56

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF BULLYING; AND REQUIRING THAT THE FINAL RESULTS BE REPORTED TO THE 67TH LEGISLATURE.

WHEREAS, the Legislature enacted The Bully-Free Montana Act in 2015; and

WHEREAS, bullying remains a significant problem; and

WHEREAS, modern technology and social media can exacerbate the harm done through bullying.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) examine the problem of bullying in Montana schools;

(2) review policies in other states that have proven effective in addressing bullying;

(3) analyze the impacts of the Bully-Free Montana Act;

(4) determine whether changes to the Bully-Free Montana Act would be beneficial in addressing the problem of bullying; and

(5) consider policies that:

(a) prevent bullying behavior from developing;

(b) ensure protection from further bullying for victims; and

(c) promote recovery for victims.

BE IT FURTHER RESOLVED, that the study should seek out the assistance and involvement of the Office of Public Instruction, the Board of Public Education, the Department of Public Health and Human Services, school counselors and psychologists, school resource officers, representatives from the youth court system, and appropriate K-12 education stakeholders.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 25, 2019

House Resolutions

HOUSE RESOLUTION NO. 1

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ADOPTING THE HOUSE RULES.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the following House Rules be adopted:

RULES OF THE MONTANA HOUSE OF REPRESENTATIVES

CHAPTER 1

Administration

H10-10. House officers – definitions. (1) House officers include a Speaker, a Speaker pro tempore, majority and minority leaders, and majority and minority whips.

(2) A majority of representatives voting elects the Speaker and Speaker pro tempore from the House membership. A majority of each caucus voting nominates House members to the remaining offices, and those nominees are considered to have been elected by a majority vote of the House.

(3) (a) “Majority leader” means the leader of the majority party, elected by the caucus.

(b) “Majority party” means the party with the most members, subject to subsection (4).

(c) “Minority leader” means the leader of the minority party, elected by the caucus.

(d) “Minority party” means the party with the second most members, subject to subsection (4).

(4) If there are an equal number of members of the two parties with the most members, then the majority party is the party of the Speaker and the minority party is the other party with an equal number of members.

H10-20. Speaker’s duties. (1) The Speaker is the presiding officer of the House, with authority for administration, order, decorum, and the interpretation and enforcement of rules in all House deliberations.

(2) The Speaker shall see that all members conduct themselves in a civil manner in accordance with accepted standards of parliamentary conduct. The Speaker may, when necessary, order the Sergeant-at-Arms to clear the aisles and seat the members of the House so that business may be conducted in an orderly manner.

(3) Signs, placards, visual displays, or other objects of a similar nature are not permitted in the rooms, lobby, gallery, or on the floor of the House. The Speaker may order the galleries, lobbies, or hallway cleared in case of disturbance or disorderly conduct.

(4) The Speaker shall sign all necessary certifications by the House, including enrolled bills and resolutions, journals, subpoenas, and payrolls.

(5) The Speaker shall arrange the agendas for second and third readings each legislative day. Representatives may amend the agendas as provided in H40-130.

(6) The Speaker is the chief officer of the House, with authority for all House employees.

(7) The Speaker may name any member to perform the duties of the chair. If the House is not in session and the Speaker pro tempore is not available, the Speaker shall name a member who shall call the House to order and preside during the Speaker's absence.

(8) Upon request of the Minority Leader, the Speaker will submit a request for a fiscal note on any bill.

H10-30. Speaker-elect. During the transition period between the party organization caucuses and the election of House officers, the Speaker-elect has the responsibilities and authority appropriate to organize the House. Authority includes approving pre-session expenditures.

H10-40. Speaker pro tempore duties. The Speaker pro tempore shall, in the absence or inability of the Speaker, call the House to order and perform all other duties of the chair in presiding over the deliberations of the House and shall perform other duties and exercise other responsibilities as may be assigned by the Speaker.

H10-50. Majority Leader. The primary functions of the majority leader usually relate to floor duties. The duties of the majority leader may include but are not limited to:

- (1) being the lead speaker for the majority party during floor debates;
- (2) helping the Speaker develop the calendar;
- (3) assisting the Speaker with program development, policy formation, and policy decisions; and
- (4) presiding over the majority caucus meetings; and
- (5) other duties as assigned by the caucus.

H10-60. Majority Whip. The duties of the majority whip may include but are not limited to:

- (1) assisting the majority leader;
- (2) ensuring member attendance;
- (3) counting votes;
- (4) generally communicating the majority position; and
- (5) other duties as assigned by the caucus.

H10-70. Minority Leader. The minority leader is the principal leader of the minority caucus. The duties of the minority leader may include but are not limited to:

- (1) developing the minority position;
- (2) negotiating with the majority party;
- (3) directing minority caucus activities on the chamber floor;
- (4) leading debate for the minority; and
- (5) other duties as assigned by the caucus.

H10-80. Minority Whip. The major responsibilities for the minority whip may include but are not limited to:

- (1) assisting the minority leader on the floor;
- (2) counting votes;
- (3) ensuring attendance of minority party members; and
- (4) other duties as assigned by the caucus.

H10-90. Employees. (1) The Speaker shall appoint a Chief Clerk and Sergeant-at-Arms and may appoint a Chaplain, subject to confirmation of the House.

(2) The Speaker shall employ necessary staff or delegate that function to the employees designated in subsection (1).

(3) The secretary for a standing or select committee is generally responsible to the committee chair but shall work under the direction of the Chief Clerk.

(4) The Speaker and majority and minority leaders may each appoint an assistant.

H10-100. Chief Clerk's duties. The Chief Clerk, under the supervision of the Speaker, is the chief administrative officer of the House and is responsible to:

- (1) supervise all House employees;
- (2) have custody of all records and documents of the House;
- (3) supervise the handling of legislation in the House, the House journal, and other House publications; deliver to the Secretary of State at the close of each session the House journal, bill and resolution records, and all original House bills and joint resolutions; collect minutes and exhibits from all House committees and subcommittees and arrange to have them printed on archival paper and copied in an electronic format within a reasonable time after each meeting. An electronic copy will be provided to the Legislative Services Division and the State Law Library of Montana. The archival paper copy will be delivered to the Montana Historical Society.

H10-110. Duties of Sergeant-at-Arms. The Sergeant-at-Arms shall:

- (1) under the direction of the Speaker and the Chief Clerk, have charge of and maintain order in the House, its lobbies, galleries, and hallways and all other rooms in the Capitol assigned for the use of the House;
- (2) be present whenever the House is in session and at any other time as directed by the presiding officer;
- (3) execute the commands of the House and serve the writs and processes issued by the authority of the House and directed by the Speaker;
- (4) supervise assistants to the Sergeant-at-Arms, who shall aid in the performance of prescribed duties and who have the same authority, subject to the control of the Speaker;
- (5) clear the floor and anteroom of the House of all persons not entitled to the privileges of the floor prior to the convening of each session of the House;
- (6) bring in absent members when so directed under a call of the House;
- (7) enforce the distribution of any printed matter in the House chambers and anteroom in accordance with H20-70;
- (8) enforce parking regulations applicable to areas of the Capitol complex under the control of the House;
- (9) supervise the doorkeeper; and
- (10) supervise the pages.

H10-120. Legislative aides. (1) A legislative aide is a person specifically designated by a representative to assist that representative in performing legislative duties. A representative may sponsor one legislative aide a session by written notification to the Sergeant-at-Arms.

(2) No representative may designate a second legislative aide in the same session without the approval of the House Rules Committee.

(3) A legislative aide must be of legal age unless otherwise approved by the House Rules Committee.

(4) The Sergeant-at-Arms shall issue distinctive identification tags to legislative aides. The cost must be paid by the sponsoring representative.

H10-140. House journal. (1) The House shall keep a journal, which is the official record of House actions (Montana Constitution, Art. V, Sec. 10). The journal must be prepared under the direction of the Speaker.

(2) Records of the following proceedings must be entered on the journal:

- (a) the taking and subscription of the constitutional oath by representatives (Montana Constitution, Art. III, Sec. 3);
- (b) committee reports;
- (c) messages from the Governor;
- (d) messages from the Senate;

(e) every motion, the name of the representative presenting it, and its disposition;

(f) the introduction of legislation in the House;

(g) consideration of legislation subsequent to introduction;

(h) on final passage of legislation, the names of the representatives and their vote on the question (Montana Constitution, Art. V, Sec. 11);

(i) roll call votes; and

(j) upon a request by two representatives before a vote is taken, the names of the representatives and their votes on the question.

(3) The Chief Clerk shall provide to the Legislative Services Division such information as may be required for the publication of the daily journal.

(4) Any representative may examine the daily journal and propose corrections. The Speaker may direct a correction to be made when suggested subject to objection by the House.

(5) The Speaker shall authenticate the House journal after the close of the session.

(6) The Legislative Services Division shall publish and distribute the House journal (sections 5-11-202 and 5-11-203, MCA). The title of each bill must be listed in the index of the published session journal.

H10-150. Votes recorded and public. Every vote of each representative on each substantive question in the House, in any committee, or in Committee of the Whole must be recorded and made public (Montana Constitution, Art. V, Sec. 11).

H10-160. Duration of legislative day. A legislative day ends either 24 hours after the House convenes for that day or at the time the House convenes for the following legislative day, whichever is earlier. (See Joint Rule 10-20.)

CHAPTER 2

Decorum

H20-10. Addressing the House – recognition. (1) When a member desires to speak to or address any matter to the House, the member should rise and respectfully address the Speaker or the presiding officer.

(2) The Speaker or presiding officer may ask, “For what purpose does the member rise?” or “For what purpose does the member seek recognition?” and may then decide if recognition is to be granted, except that the Speaker or presiding officer shall always recognize the Speaker pro tempore, the majority leader, or the minority leader.

H20-20. Questions of order and privilege – appeal – restrictions – definitions. (1) The Speaker shall decide all questions of order and privilege, subject to an appeal by any representative, seconded by two representatives, to the House for determination by majority vote. The question on appeal is, “Shall the decision of the chairman be sustained?”

(2) Responses to parliamentary inquiries and decisions of recognition may not be appealed.

(3) Questions of order and privilege, in order of precedence, are:

(a) those affecting the collective rights, safety, dignity, and integrity of the House; and

(b) those affecting the rights, reputation, and conduct of individual representatives.

(4) A member may not address the House on a question of privilege between the time:

(a) an undebatable motion is offered and the vote is taken on the motion;

(b) the previous question is ordered and the vote is taken on the proposition included under the previous question; or

(c) a motion to lay on the table is offered and the vote is taken on the motion.

(5) (a) “Parliamentary inquiry” means a request for information regarding some procedure concerning some questions before the house.

(b) “Questions of order and privilege” means those questions as provided for in subsection (3) that enforce the House rules, maintain the order of the House, and protect the integrity, rights, and privileges of the House and its members.

H20-30. Limits on lobbying. Lobbying on the House floor and in the anteroom is prohibited during a daily session, 2 hours before the session, and 2 hours after the session. A registered lobbyist is prohibited from the house floor.

H20-40. Admittance to the House floor. (1) The following persons may be admitted to the House floor during a daily session: present legislators and former legislators who are not registered lobbyists; legislative employees necessary for the conduct of the session; registered media representatives; and members’ spouses and children. The Speaker may allow exceptions to this rule.

(2) Only a member may sit in a member’s chair when the House is in session.

H20-50. Dilatory motions or questions – appeal. The House has a right to protect itself from dilatory motions or questions used for the purpose of delaying or obstructing business. The presiding officer shall decide if motions (except a call of the House) or questions are dilatory. This decision may be appealed to the House for a determination by majority vote.

H20-60. Lobbying by employees – sanctions. (1) A legislative employee or aide of either house is prohibited from lobbying, although a legislative committee may request testimony from a person so restricted.

(2) The Speaker may discipline or discharge any House employee violating this prohibition. The Speaker may withdraw the privileges of any House aide violating this prohibition.

H20-70. Papers distributed on desks – exception. A paper concerning proposed legislation may not be placed on representatives’ desks unless it is authorized by a member and permission has been granted by the Speaker. The Sergeant-at-Arms shall direct its distribution. This restriction does not apply to material prepared by staff and placed on a representative’s desk at the request of the representative.

H20-80. Violation of rules – procedure – appeal. (1) If a member, in speaking or otherwise, violates the rules of the House, the Speaker shall, or the majority or minority leader may, call the member to order, in which case the member called to order must be seated immediately.

(2) The member called to order may move for an appeal to the House and if the motion is seconded by two members, the matter must be submitted to the House for determination by majority vote. The motion is nondebatable.

(3) If the decision of the House is in favor of the member called to order, the member may proceed. If the decision is against the member, the member may not proceed.

(4) If a member is called to order, the matter may be referred to the Rules Committee by the minority or majority leader. The Committee may recommend to the House that the member be censured or be subject to other action. Censure consists of an official public reprimand of a member for inappropriate behavior. The House shall act upon the recommendation of the Committee.

CHAPTER 3

Committees

H30-05. Interim committee appointments. (1) The Speaker shall, with the approval of the House by a majority vote, appoint the membership of

interim committees no later than 10 legislative days before the scheduled 90th legislative day or prior to adjournment sine die if before the 90th legislative day.

(2) A change by the Speaker of an interim committee appointment or the filling of a vacancy must be approved by the House by a majority vote.

(3) (a) As provided in subsection (3)(b), the House may change the membership of any interim committee by a majority vote on 3 legislative days' notice.

(b) A member under Order of Business No. 9 may move that specified changes be made to the membership of any interim committee, with the vote 3 legislative days from the day the motion was made.

H30-10. House standing committees – appointments – classification.

(1) (a) (i) The Speaker shall determine the total number of members and after good faith consultation with the minority leader shall, with the approval of the House by a majority vote, appoint the chairs, vice chairs, and members to the standing committees.

(ii) A change by the Speaker of a standing committee appointment or the filling of a vacancy must be approved by the House by a majority vote.

(b) The minority leader shall designate a minority vice chair for each standing committee.

(2) The standing committees of the House are as follows:

(a) class one committees:

(i) Appropriations;

(ii) Business and Labor;

(iii) Human Services;

(iv) Judiciary;

(v) State Administration; and

(vi) Taxation;

(b) class two committees:

(i) Education;

(ii) Energy, Technology, and Federal Relations;

(iii) Natural Resources; and

(iv) Transportation;

(c) class three committees:

(i) Agriculture;

(ii) Fish, Wildlife, and Parks; and

(iii) Local Government; and

(d) on call committees:

(i) Ethics;

(ii) Rules; and

(iii) Legislative Administration.

(3) A class 1 committee is scheduled to meet Monday through Friday. A class 2 committee is scheduled to meet Monday, Wednesday, and Friday. A class 3 committee is scheduled to meet Tuesday and Thursday. Unless a class is prescribed for a committee, it meets upon the call of the chair.

(4) The Legislative Council shall review the workload of the standing committees to determine if any change is indicated in the class of a standing committee for the next legislative session. The Legislative Council's recommendations must be submitted to the leadership nominated or elected at the presession caucus.

(5) There will be six subcommittees of the Committee on Appropriations, Education, General Government, Health and Human Services, Natural Resources and Transportation, Judicial Branch, Law Enforcement, and Justice,

and Long-Range Planning. Each member serving on the Appropriations Committee must be appointed to at least one of the subcommittees.

(6) The Speaker shall give notice of each appointment to the Chief Clerk for publication.

(7) (a) The Speaker may, in the Speaker's discretion or as authorized by the House, create and appoint select committees, designating the chairman and vice chairman of the select committee with the approval of the House by a majority vote. Select committees may request or receive legislation in the same manner as a standing committee and are subject to the rules of standing committees.

(b) A change by the Speaker of select committee appointment or the filling of a vacancy must be approved by the House by a majority vote.

(8) (a) The Speaker shall appoint all conference, select, and special committees with the advice of the majority leader and minority leader and with the approval of the House by a majority vote.

(b) A change by the Speaker of a conference, select, or special committee appointment or the filling of a vacancy must be approved by the House by a majority vote.

(9) (a) (i) Except as provided in subsection (9)(b), the House may change the membership of any committee by a majority vote on 3 legislative days' notice as provided in subsection (9)(a)(ii).

(ii) A member under Order of Business No. 9 may move that specified changes be made to the membership of any committee, with the vote 3 legislative days from the day the motion was made.

(b) (i) The House may change the membership of a conference committee by a majority vote on 2 legislative days' notice as provided in subsection (9)(b)(ii).

(ii) A member under Order of Business No. 9 may move that specified changes be made to the membership of any committee, with the vote 2 legislative days from the day the motion was made.

H30-20. Chairman's duties. (1) The principal duties of the chairman of standing or select committees are to:

(a) preside over meetings of the committee and to put all questions;

(b) except as provided in H30-40(3)(b) and H30-50(3)(b), schedule all bills assigned to committee for a hearing prior to 3 legislative days before the applicable transmittal deadline for the bill as provided in Joint Rule 40-200;

(c) maintain order and decide all questions of order subject to appeal to the committee;

(d) supervise and direct staff of the committee;

(e) have the committee secretary keep the official record of the minutes;

(f) sign reports of the committee and submit them promptly to the Chief Clerk;

(g) appoint subcommittees to perform on a formal or an informal basis as provided in subsection (2); and

(h) inform the Speaker of committee activity.

(2) With the exception of the House Appropriations subcommittees, a subcommittee of a standing committee may be appointed by the chairman of the committee. The chairman of the standing committee shall appoint the chairman of the subcommittee.

H30-30. Quorum – officers as members. (1) A quorum of a committee is a majority of the members of the committee. A quorum of a committee must be present at a meeting to act officially. A quorum of a committee may transact business, and a majority of the quorum, even though it is a minority of the committee, is sufficient for committee action.

(2) The Speaker, the majority leader, and the minority leader are ex officio, nonvoting members of all House committees. They may count toward establishing a quorum.

H30-40. Meetings – purpose – notice – minutes. (1) All meetings of committees must be open to the public at all times, subject always to the power and authority of the chairman to maintain safety, order, and decorum. The date, time, and place of committee meetings must be posted.

(2) A committee or subcommittee may be assembled for:

(a) a public hearing at which testimony is to be heard and at which official action may be taken on bills, resolutions, or other matters;

(b) a formal meeting at which the committees may discuss and take official action on bills, resolutions, or other matters without testimony; or

(c) a work session at which the committee may discuss bills, resolutions, or other matters but take no formal action.

(3) (a) All committees meet at the call of the chairman or upon the request of a majority of the members of the committee.

(b) A committee, through motion, may schedule a bill within the possession of the committee for a hearing prior to 3 legislative days before the applicable transmittal deadline for the bill as provided in Joint Rule 40-200.

(4) All committees shall provide for and give public notice, reasonably calculated to give actual notice to interested persons, of the time, place, and subject matter of regular and special meetings. All committees are encouraged to provide at least 3 legislative days' notice to members of committees and the general public. However, a meeting may be held upon notice appropriate to the circumstances.

(5) A committee may not meet during the time the House is in session without leave of the Speaker. Any member attending such a meeting must be considered excused to attend business of the House subject to a call of the House.

(6) All meetings of committees must be recorded and the minutes must be available to the public within a reasonable time after the meeting. The official record must contain at least the following information:

(a) the time and place of each meeting of the committee;

(b) committee members present, excused, or absent;

(c) the names and addresses of persons appearing before the committee, whom each represents, and whether the person is a proponent, opponent, or other witness;

(d) all motions and their disposition;

(e) the results of all votes;

(f) references to the recording log, sufficient to serve as an index to the original recording; and

(g) testimony and exhibits submitted in writing.

H30-50. Procedures – absentee or proxy voting – member privileges. (1) The chairman shall notify the sponsor of any bill pending before the committee of the time and place it will be considered.

(2) A standing or select committee may not take up referred legislation unless the sponsor or one of the cosponsors is present or unless the sponsor has given written consent. The chairman shall attempt to not schedule Senate bills while the Senate is in session.

(3) (a) Subject to H30-60 and subsection (3)(b), the committee shall act on each bill in its possession and that has had a hearing prior to the last legislative day before the applicable transmittal deadline for the bill as provided in Joint Rule 40-200:

- (i) by reporting the bill out of the committee:
- (A) with the recommendation that it be referred to another committee;
- (B) favorably as to passage; or
- (C) unfavorably; or

(ii) by tabling the measure in committee.

(b) Except as provided in subsection (3)(c), at the written request of the sponsor made at least 48 hours prior to a scheduled hearing, a bill may be withdrawn by the sponsor without a hearing. A bill may not be reported from a committee without a hearing.

(c) A bill may not be withdrawn by the sponsor after a hearing.

(4) The committee may not report a bill to the House without recommendation.

(5) The committee may recommend that a bill on which it has made a favorable recommendation by unanimous vote be placed on the consent calendar. A tie vote in a standing committee on the question of a recommendation to the whole House on a matter before the committee, for example on a question of whether a bill is recommended as "do pass" or "do not pass", does not result in the matter passing out to the whole House for consideration without recommendation.

(6) In reporting a measure out of committee, a committee shall include in its report:

- (a) the measure in the form reported out;
- (b) the recommendation of the committee;
- (c) an identification of all substantive changes; and
- (d) a fiscal note, if required and available.

(7) If a measure is withdrawn from a committee and brought to the House floor for debate on second reading on that day without a committee recommendation, the bill does not include amendments formally adopted by the committee because committee amendments are merely recommendations to the House that are formally adopted when the committee report is accepted by the House.

(8) A second to any motion offered in a committee is not required in order for the motion to be considered by the committee.

(9) The vote of each member on all committee actions must be recorded. All motions may be adopted only on the affirmative vote of a majority of the members voting. Standing and select committees may by a majority vote of the committee authorize members to vote by proxy if absent, while engaged in other legislative business or when excused by the presiding officer of the committee due to illness or an emergency. Authorization for absentee or proxy voting must be reflected in the committee minutes.

(10) A motion to take a bill from the table may be adopted by the affirmative vote of a majority of the members present at any meeting of the committee.

(11) An action formally taken by a committee may not be altered in the committee except by reconsideration and further formal action of the committee.

(12) A committee may reconsider any action as long as the matter remains in the possession of the committee. A committee member need not have voted with the prevailing side in order to move reconsideration.

(13) (a) Except as provided in subsection (13)(b), legislation requested by a committee requires three-fourths of all members of the committee to vote in favor of the question to allow the committee to request the drafting or introduction of legislation. Votes requesting drafting and introduction of committee legislation may be taken jointly or separately.

(b) The House Appropriations committee may request the drafting and introduction of legislation by a majority vote of all of the members of the committee.

(14) The chairman shall decide points of order.

(15) The privileges of committee members include the following:

(a) to participate freely in committee discussions and debate;

(b) to offer motions;

(c) to assert points of order and privilege;

(d) to question witnesses upon recognition by the chairman;

(e) to offer any amendment to any bill; and

(f) to vote, either by being present or by proxy if authorized pursuant to subsection (9), using a standard form or through the vice chairman or minority vice chairman.

(16) Any meeting of a committee held through the use of telephone or other electronic communication must be conducted in accordance with Chapter 3 of the House Rules.

(17) A committee may consolidate into one bill any two or more related bills referred to it whenever legislation may be simplified by the consolidation.

(18) Committee procedure must be informal, but when any questions arise on committee procedure, the rules or practices of the House are applicable except as stated in the House Rules.

H30-60. Public testimony -- decorum -- time restrictions.

(1) Testimony from proponents, opponents, and informational witnesses must be allowed on every bill or resolution before a standing or select committee. All persons, other than the sponsor, offering testimony shall register on the committee witness list.

(2) Any person wishing to offer testimony to a committee hearing a bill or resolution must be given a reasonable opportunity to do so, orally or in writing. Written testimony may not be required of any witness, but all witnesses must be encouraged to submit a statement in writing for the committee's official record.

(3) The chairman may order the committee room cleared of visitors if there is disorderly conduct. During committee meetings, visitors may not speak unless called upon by the chairman. Restrictions on time available for testimony may be announced.

(4) The number of people in a committee room may not exceed the maximum posted by the State Fire Marshal. The chairman shall maintain that limit.

(5) In any committee meeting, the use of cameras, television, radio, or any form of telecommunication equipment is allowed, but the chairman may designate the areas of the hearing room from which the equipment must be operated. Cell phone use is allowed only at the discretion of the chairman.

CHAPTER 4

Legislation

H40-10. Introduction deadlines. If a representative accepts drafted legislation from the Legislative Services Division after the deadline for preintroduction, the representative may not introduce that legislation after 2 legislative days from the time the bill was accepted from the Legislative Services Division.

H40-20. House resolutions. (1) A House resolution is used to adopt or amend House rules, make recommendations on the districting and apportionment plan (Montana Constitution, Art. V, Sec. 14), express the sentiment of the House, or assist House operations.

(2) As to drafting, introduction, and referral, a House resolution is treated as a bill. A House resolution may be requested and introduced at any time. Final passage of a House resolution is determined by the Committee of the Whole report. A House resolution does not progress to third reading.

(3) The Chief Clerk shall transmit a copy of each passed House resolution to the Senate and the Secretary of State.

H40-30. Cosponsors. (1) Prior to submitting legislation to the Chief Clerk for introduction, the chief sponsor may add representatives and senators as cosponsors. A legislator shall sign the cosponsor form attached to the legislation in order to be added as a cosponsor.

(2) After legislation is submitted for introduction but before the legislation returns from the first House committee, the chief sponsor may add or remove cosponsors by filing a cosponsor form with the Chief Clerk. This filing must be noted by the Chief Clerk for the record on Order of Business No. 11.

H40-40. Introduction – receipt – messages from Senate and elected officials. (1) During a session, proposed House legislation may be introduced in the House by submitting it, endorsed with the signature of a representative as chief sponsor, to the Chief Clerk for introduction. Except for the first 15 bill numbers that may be reserved for preintroduced legislation, in each session of the Legislature, the proposed legislation must be numbered consecutively by type in the order of receipt. Submission and numbering of properly endorsed legislation constitutes introduction.

(2) Preintroduction of legislation prior to a session under provisions of the joint rules constitutes introduction in the House.

(3) Acknowledgment by the Chief Clerk of receipt of legislation or other matters transmitted from the Senate for consideration by the House constitutes introduction of the Senate legislation in the House or receipt by the House for purposes of applying time limits contained in the House rules. All legislation may be referred to a committee prior to being read across the rostrum as provided in H40-50.

(4) Acknowledgment by the Chief Clerk of receipt of messages from the Senate or other elected officials constitutes receipt by the House for purposes of any applicable time limit. Senate legislation or messages received from the Senate or elected officials are subject to all other rules.

H40-50. First reading – receipt of Senate legislation. Legislation properly introduced or received in the House must be announced across the rostrum and public notice provided. This announcement constitutes first reading, and no debate or motion is in order except that a representative may question adherence to rules. Acknowledgment by the Chief Clerk of receipt of legislation transmitted from the Senate commences the time limit for consideration of the legislation. All legislation received by the House may be referred to a committee prior to being read across the rostrum.

H40-60. One reading per day – exception. Except on the final legislative day, legislation may receive no more than one reading per legislative day. On the final legislative day, legislation may receive more than one reading.

H40-70. Referral. (1) The Speaker shall refer to a House committee, joint select committee, or joint special committee all properly introduced House legislation and transmitted Senate legislation in conformity with the House Rules Appendix and within 2 legislative days of introduction or transmission.

(2) Legislation may not receive final passage and approval unless it has been referred to a House committee, joint select committee, or joint special committee.

H40-80. Rereferral – Appropriations Committee rereferral – normal progression. (1) Legislation that is in the possession of the House and that

has not had a House hearing in the currently assigned House committee may be rereferred to a House committee in accordance with the House Rules Appendix, by House motion approved by a majority of the members present and voting.

(2) (a) With the consent of the majority leader, the minority leader, and the bill sponsor, legislation that has passed second reading in the Committee of the Whole and that has been rereferred to the Appropriations Committee and is reported from committee without amendments may be placed on third reading.

(b) Prior to being placed on third reading, legislation rereferred must be sent to be processed and reproduced as a third reading version and specifically marked as having been passed on second reading and rereferred to the House Appropriations Committee and reported from the committee without amendments.

(3) (a) The normal progress of legislation through the House consists of the following steps in the order listed: introduction; referral to a standing or select committee; a report from the committee; second reading; and third reading.

(b) A motion to remove legislation from its normal progress through the House as provided in subsection (3)(a) by House motion must be approved by not less than the number of members in the majority caucus currently serving in the House.

H40-90. Legislation withdrawn from committee. Legislation may be withdrawn from a House committee after a committee hearing on the legislation by House motion approved by not less than the number of members in the majority caucus currently serving in the House.

H40-100. Standing committee reports – requirement for rejection of adverse committee report. (1) A House standing committee recommendation of “do pass” or “be concurred in” must be announced across the rostrum and, if there is no objection to form, is considered adopted.

(2) A recommendation of “do not pass” or “be not concurred in” must be announced across the rostrum and, on the following legislative day, may be debated and adopted or rejected on Order of Business No. 2. A motion to reject an adverse committee report must be approved by a majority of the members voting. Failure to adopt a motion to reject an adverse committee report constitutes adoption of the report.

(3) If the House rejects an adverse committee report, the bill progresses to second reading, as scheduled by the Speaker, with any amendments recommended by the committee.

H40-110. Consent calendar procedure. (1) Noncontroversial bills and simple and joint resolutions may be recommended for the consent calendar by a standing committee and processed according to the following provisions:

(a) To be eligible for the consent calendar, the legislation must receive a unanimous vote by the members of the standing committee in attendance (do pass, do pass as amended). In addition, a motion must be made and passed unanimously to place the legislation on the consent calendar and this action reflected in the committee report. Appropriation or revenue bills may not be recommended for the consent calendar.

(b) The legislation must then be sent to be processed and reproduced as a third reading version and specifically marked as a “consent calendar” item.

(2) Other legislation may be placed on the consent calendar by agreement between the Speaker and the minority leader following a positive recommendation by a standing committee. The legislation must be sent to be processed as a second reading version but must be specifically announced and posted as a “consent calendar” item.

(3) Legislation must be posted immediately (as soon as it is received appropriately printed) on the consent calendar and must remain there for 1 legislative day before consideration under Order of Business No. 11, special orders of the day. At that time, the presiding officer shall announce consideration of the consent calendar and allow “reasonable time” for questions and answers upon request. No debate is allowed.

(4) If any one representative submits a written objection to the placement of legislation on the consent calendar, the legislation must be removed from the consent calendar and added to the regular second reading board.

(5) Consent calendar legislation will be considered on Order of Business No. 8, third reading of bills, following the regular third reading agenda, as separately noted on the agenda.

(6) Legislation on the consent calendar must be considered individually with the roll call vote spread on the journal as the final vote in the House.

(7) Legislation passed on the consent calendar must then be transmitted to the Senate. Legislation must be appropriately printed prior to transmittal.

H40-120. Legislation requiring other than a majority vote. Legislation that requires other than a majority vote for final passage needs only a majority vote for any action that is taken prior to third reading and that normally requires a majority vote.

H40-130. Amending House second and third reading agendas – vote requirements. (1) A majority of representatives present may rearrange or remove legislation from either the second or third reading agenda on that legislative day.

(2) (a) Legislation reported out of committee may be added to the second reading agenda on that legislative day on a motion approved by a majority of the members present and voting.

(b) Legislation reported out of the Committee of the Whole may be added to the third reading agenda on 1 day’s notice on a motion approved by a majority of the members present and voting.

H40-140. Second reading – timing – obverse vote on failed motion – status of amendments – rejection of report – segregation. (1) Legislation returned or withdrawn from committee by motion must be placed on second reading prior to the transmittal deadlines provided for in Joint Rule 40-200 that are applicable to each piece of legislation.

(2) The House shall form itself into a Committee of the Whole to consider business on second reading. The Committee of the Whole may debate legislation, attach amendments, and recommend approval or disapproval of legislation.

(3) Except on the final legislative day, at least 1 legislative day must elapse between the time legislation is reported from committee and the time it is considered on second reading.

(4) If a motion to recommend that a bill “do pass” or “be concurred in” fails in the Committee of the Whole, the obverse, i.e., a recommendation that the bill “do not pass” or “be not concurred in”, is considered to have passed. If a motion to recommend that a bill “do not pass” or “be not concurred in” fails in the Committee of the Whole, the obverse, i.e., a recommendation that the bill “do pass” or “be concurred in”, is considered to have passed.

(5) An amendment attached to legislation by the Committee of the Whole remains unless removed by further legislative action.

(6) When the Committee of the Whole reports to the House, the House shall adopt or reject the Committee of the Whole report. If the House rejects the Committee of the Whole report, the legislation remains on second reading, as amended by the Committee of the Whole, and must be acted on by the

Committee of the Whole by the next legislative day unless the House orders otherwise.

(7) A representative may move to segregate legislation from the Committee of the Whole report before the report is adopted. Segregated legislation, as amended by the Committee of the Whole, must be placed on second reading unless the House orders otherwise. Amendments adopted by the Committee of the Whole on segregated legislation remain adopted unless reconsidered pursuant to H50-170 or unless the legislation is rereferred to a committee.

H40-150. Amendments in the Committee of the Whole – timing – official records. (1) All Committee of the Whole amendments must be prepared by the Legislative Services Division and checked by the House amendments coordinator for format, style, clarity, consistency, and other factors, in accordance with the most recent Bill Drafting Manual published by the Legislative Services Division, before the amendment may be accepted at the rostrum. The amendment form must include the date and time the amendment is submitted for that check.

(2) An amendment submitted to the rostrum for consideration by the Committee of the Whole must be marked as checked by the amendments coordinator and signed by a representative. Unless the majority leader, the minority leader, and sponsor agree, amendments must be printed and placed on the members' desks prior to consideration.

(3) An amendment may not be proposed until the sponsor has opened on a bill.

(4) A copy of every amendment rejected by the Committee of the Whole must be kept as part of the official records.

(5) An amendment may not change the original purpose of the bill.

H40-160. Motions in the Committee of the Whole – quorum required.

(1) When the House resolves itself into a Committee of the Whole, the only motions in order are to:

(a) recommend passage or nonpassage;

(b) recommend concurrence or nonconcurrence (Senate amendments to House legislation);

(c) amend;

(d) reconsider as provided in H50-170;

(e) pass consideration;

(f) call for cloture;

(g) change the order in which legislation is placed on the agenda; and

(h) rise, rise and report, or rise and report progress and beg leave to sit again.

(2) Subsections (1)(d) through (1)(f) and (1)(h) are nondebatable but may be amended. Once a motion under subsection (1)(a) or (1)(b) is made, a contrary motion is not in order.

(3) The motions listed in subsection (1) may be made in descending order as listed.

(4) If a quorum of representatives is not present during second reading, the Committee of the Whole may not conduct business on legislation and a motion for a call of the House without a quorum is in order.

H40-170. Limits on debate in the Committee of the Whole. (1) Except as provided in H40-180, a representative may not speak more than once on the motion and may speak for no more than 5 minutes. The representative who makes the motion may speak a second time for 5 minutes in order to close.

(2) (a) Except as provided in subsection (2)(b), after at least two proponents and two opponents have spoken on a question and 30 minutes have elapsed

from the point in time that the sponsor's opening remarks on the motion end and debate on the motion begins, a motion to call for cloture is in order.

(b) (i) The 30-minute tolling requirement for a cloture motion made pursuant to subsection (2)(a) does not include time spent on floor debate of a substitute motion to amend the original question.

(ii) Each substitute motion to amend the original question is subject to a cloture motion and the cloture requirements provided for in this rule.

(iii) Once a substitute motion to amend is dispensed with and there are no other substitute motions to amend, the 30-minute tolling requirement for the original question pursuant to subsection (2)(a) resumes from the point in time in which the first substitute motion to amend was made.

(c) Approval by not less than two-thirds of the members present and voting is required to sustain a motion for cloture. Notwithstanding the passage of a motion to end debate, the sponsor of the motion on which debate was ended may close.

(3) By previous agreement of the majority leader and the minority leader:

(a) a lead proponent and a lead opponent may be granted additional time to speak on a bill;

(b) a bill or resolution may be allocated a predetermined amount of time for debate and number of speakers.

H40-180. Special provisions for debate on the general appropriations bill – sections – amendments. (1) The Appropriations Committee chairman, in presenting the bill, is not subject to the 5-minute speaking limitation.

(2) Each appropriations subcommittee chairman shall fully present the chairman's portion of the bill. A subcommittee chairman is not subject to the 5-minute speaking limitation.

(3) After the presentation by the subcommittee chairman, the respective section of the bill is open for debate, questions, and amendments. A proposed amendment to the general appropriations act may not be divided.

(4) An amendment that affects more than one section of the bill must be offered when the first section affected is considered.

(5) Following completion of the debate on each section, that section is closed and may not be reopened except by majority vote.

(6) If a member moves to reopen a section for amendment, only the amendment of that member may be entertained. Another member wishing to amend the same section shall make a separate motion to reopen the section.

(7) Debate on the motion to reopen a section is limited to the question of reopening the section. The amendment itself may not be debated at that time. This limitation does not prohibit the member from explaining the amendment to be considered.

H40-190. Engrossing. (1) After legislation is passed on second reading, it must be engrossed within 48 hours under the direction of the Speaker. The Speaker may grant an additional 24 hours for engrossing.

(2) When the legislation that has passed second reading, as amended, has been correctly engrossed, it must be placed on third reading on the following legislative day. If the bill is not amended, the bill must be sent to printing and must be placed on third reading on the legislative day after receipt. On the final legislative day, the correctly engrossed legislation may be placed on third reading on the same legislative day. For the purposes of this rule, "engrossing" means placing amendments in a bill. (See Joint Rule 40-150.)

H40-200. Third reading. (1) All bills, joint resolutions, and Senate amendments to House bills and joint resolutions passing second reading must be placed on third reading the day following the receipt of the engrossing or other appropriate printing report.

(2) Legislation on third reading may not be amended or debated.

(3) The Speaker shall state the question on legislation on third reading. If a majority of the representatives voting does not approve the legislation, it fails to pass third reading.

H40-210. Senate legislation in the House. Senate legislation properly transmitted to the House must be treated as House legislation.

H40-220. Senate amendments to House legislation. (1) When the Senate has properly returned House legislation with Senate amendments, the House shall announce the amendments on Order of Business No. 4, and the Speaker shall place them on second reading for debate. The Speaker may, with the approval of the House, rerefer House legislation with Senate amendments to a committee for a hearing if the Senate amendments constitute a significant change in the House legislation. The second reading vote is limited to consideration of the Senate amendments.

(2) If the House accepts Senate amendments, the House shall place the final form of the legislation on third reading to determine if the legislation, as amended, is passed or if the required vote is obtained.

(3) If the House rejects the Senate amendments, the House may request the Senate to recede from its amendments or may direct appointment of a conference committee and request the Senate to appoint a like committee.

H40-230. Conference committee reports. (1) When a House conference committee files a report, the report must be announced under Order of Business No. 3.

(2) The House may debate and adopt or reject the conference committee report on second reading on any legislative day. The House may reconsider its action in rejecting a conference committee report under rules for reconsideration, H50-160.

(3) If both the House and the Senate adopt the same conference committee report on legislation requiring more than a majority vote for final passage, the House, following approval of the conference committee report on third reading, shall place the final form of the legislation on third reading to determine if the required vote is obtained.

(4) If the House rejects a conference committee report, the committee continues to exist unless dissolved by the Speaker or by motion. The committee may file a subsequent report.

(5) A House conference committee may confer regarding matters assigned to it with any Senate conference committee with like jurisdiction and submit recommendations for consideration of the House.

H40-240. Enrolling. (1) When House legislation has passed both houses, it must be enrolled within 48 hours under the direction of the Speaker. The Speaker may grant an additional 24 hours for enrolling.

(2) The chief sponsor of the legislation shall examine the enrolled legislation and, if it has no enrolling errors, shall, within 1 legislative day, certify the legislation as correctly enrolled.

(3) The correctly enrolled legislation must be delivered to the Speaker, who shall sign the legislation within 1 day of receipt of the correctly enrolled legislation unless the bill sponsor concurs to delay the signing of the enrolled legislation.

(4) After the legislation has been reported correctly enrolled but before it is signed, any representative may examine the legislation. (See Joint Rule 40-160.)

H40-250. Governor's amendments. (1) (a) When the Governor returns a bill with recommended amendments, the House shall announce the amendments under Order of Business No. 5.

(b) The Governor's amendments must be placed on the second reading agenda for consideration by the Committee of the Whole or may be assigned to a committee in accordance with the House Rules Appendix for a recommendation of adoption or rejection of the Governor's amendments.

(2) The House may debate and adopt or reject the Governor's recommended amendments on second reading on any legislative day.

(3) If both the House and the Senate accept the Governor's recommended amendments on a bill that requires more than a majority vote for final passage, the House shall place the final form of the legislation on third reading to determine if the required vote is obtained.

H40-260. Governor's veto. (1) When the Governor returns a bill with a veto, the House shall announce the veto under Order of Business No. 5.

(2) On any legislative day, a representative may move to override the Governor's veto by a two-thirds vote under Order of Business No. 9.

CHAPTER 5

Floor Actions

H50-10. Attendance – excuse – call of the House. (1) A representative, unless excused, is required to be present at every sitting of the House.

(2) A representative may request in writing to be excused for a specified cause by the representative's party leader. This excused absence is not a leave with cause from a call of the House.

H50-20. Quorum. (1) A quorum of the House is fifty-one representatives (Montana Constitution, Art. V, Sec. 10).

(2) Any representative may question the lack of a quorum at any time a vote is not being taken. The question is nondebatable, may not be amended, and is resolved by a roll call.

(3) The House may not conduct business without a quorum, except that representatives present may convene, compel the attendance of absent representatives, or adjourn.

H50-30. Call of the House without a quorum. (1) In the absence of a quorum, a majority of the representatives present may compel the attendance of absent representatives through a call of the House without a quorum. The motion for the call is nondebatable, may not be amended, and is in order at any time it has been established that a quorum is not present.

(2) During a call of the House, all business is suspended. No motion is in order except a motion to adjourn or to remove the call.

(3) When a quorum has been achieved under the call, the call is automatically lifted. The call may also be lifted by a successful motion to adjourn for the day or by two-thirds of the representatives present and voting.

H50-50. Leave with cause during call of the House. (1) During a call of the House, a representative with an overriding medical or personal reason may request a leave with cause.

(2) If the representative is present at the time of the call, the Speaker, with the approval of a majority of representatives present, may approve a request for a leave with cause.

(3) If the representative is not present at the time of the call, two-thirds of the representatives present and voting may approve a request for leave with cause.

(4) During a call of the House, a representative on leave with cause may not cast an absentee vote.

H50-60. Opening and order of business. The opening of each legislative day must include an invocation, the pledge of allegiance, and roll call. Following the opening, the order of business of the House is as follows:

- (1) communications and petitions;
- (2) reports of standing committees;
- (3) reports of select committees;
- (4) messages from the Senate;
- (5) messages from the Governor;
- (6) first reading and commitment of bills;
- (7) second reading of bills;
- (8) third reading of bills;
- (9) motions;
- (10) unfinished business;
- (11) special orders of the day; and
- (12) announcement of committee meetings.

H50-65. Request to move to any order of business. (1) Except as provided in subsection (2), the Speaker pro tempore, the majority leader, or the minority leader may request that the House move to any order of business at any time.

(2) If the House has resolved itself into the Committee of the Whole under Order of Business No. 7, a representative may not request that the House move to any order of business.

H50-70. Motions. (1) Any representative may propose a motion allowed by the rules for the order of business under which the motion is offered for the consideration of the House. Unless otherwise specified in rule or law, a majority of representatives voting is necessary and sufficient to decide a motion.

(2) Seconds to motions on the House floor are not required.

(3) Absentee votes are not allowed on votes that are specified as “representatives present and voting”.

(4) The majority leader shall make routine procedural motions required to conduct the business of the House.

H50-80. Limits on debate of debatable motions. (1) Except for the representative who places a debatable motion before the body, no representative may speak more than once on the question unless a unanimous House consents. The representative who places the motion may close.

(2) No representative may speak for more than 10 minutes on the same question, except that a representative may have 5 minutes to close.

H50-90. Nondebatable motions. (1) A representative has the right to understand any question before the House and, usually under the administration of the presiding officer, may ask questions to exercise this right.

(2) The following motions are nondebatable:

- (a) to adjourn pursuant to H50-250;
- (b) for a call of the House;
- (c) to recess or rise;
- (d) for parliamentary inquiry;
- (e) to table or take from the table;
- (f) to call for the previous question or cloture;
- (g) to amend a nondebatable motion;
- (h) to divide a question;
- (i) to suspend the rules;
- (j) all incidental motions, such as motions relating to voting or of a general procedural nature;
- (k) to appeal a call to order;
- (l) to question the lack of a quorum pursuant to H50-20; and
- (m) to change a vote pursuant to H50-210.

H50-100. Questions. A representative may, through the presiding officer, ask questions of another representative during a floor session. There is no limit on questions and answers, except as provided in H20-50.

H50-110. Amending motions – limitations. (1) A representative may move to amend the specific provisions of a motion without changing its substance.

(2) No more than one motion to amend a motion is in order at any one time.

(3) A motion for a call of the House, for the previous question, to table, or to take from the table may not be amended.

H50-120. Substitute motions. (1) When a question is before the House, no substitute motion may be made except the following, which have precedence in the order listed:

(a) to adjourn (nondebatable H50-90 and H50-250);

(b) for a call of the House (nondebatable H50-90);

(c) to recess or rise (nondebatable H50-90);

(d) for a question of privilege;

(e) to table (nondebatable H50-90);

(f) to call for the previous question or cloture;

(g) to postpone consideration to a day certain;

(h) to refer to a committee; and

(i) to propose amendments.

(2) Nothing in this section allows a motion that would not otherwise be allowed under a particular order of business.

(3) (a) Except as provided in subsection (3)(b), no more than one substitute motion is in order at any one time.

(b) A motion for cloture is in order on a substitute motion to amend.

H50-130. Withdrawing motions. A representative who proposes a motion may withdraw it before it is voted on or amended.

H50-140. Dividing a question. Except as provided in H40-180(3), a representative may request to divide a question as a matter of right if it includes two or more propositions so distinct that they can be separated and if at least one substantive question remains after one substantive question is removed. The request is nondebatable under H50-90. The presiding officer may rule that a question is nondivisible. The ruling of the chair may be appealed as provided in H50-160(11) or (13) and H70-50. For an appeal of a ruling of the presiding officer, the question for the house must be stated as, "Shall the ruling of the chair be upheld?"

H50-150. Previous question – close. (1) If a majority of representatives present and voting adopts a motion for the previous question, debate is closed on the question and it must be brought to a vote. The Speaker may not entertain a motion to end debate unless at least one proponent and one opponent have spoken on the question.

(2) Notwithstanding the passage of a motion to end debate, the sponsor of the motion on which debate was ended may close.

H50-160. Questions requiring other than a majority vote. The following questions require the vote specified for each condition:

100 House Members

(1) a motion to approve a bill to appropriate the principal of the tobacco settlement trust fund pursuant to Article XII, section 4, of the Montana Constitution (two-thirds);

(2) a motion to approve a bill to appropriate the principal of the coal severance tax trust fund pursuant to Article IX, section 5, of the Montana Constitution (three-fourths);

(3) a motion to approve a bill to appropriate highway revenue, as described in Article VIII, section 6, of the Montana Constitution, for purposes other than therein described (three-fifths);

(4) a motion to approve a bill to authorize creation of state debt pursuant to Article VIII, section 8, of the Montana Constitution (two-thirds);

(5) a motion to appropriate the principal of the noxious weed management trust fund pursuant to Article IX, section 6, of the Montana Constitution (three-fourths);

(6) a motion to temporarily suspend a joint rule governing the procedure for handling bills pursuant to Joint Rule 60-10(2) (two-thirds).

Members Present and Voting

(1) a motion to override the Governor's veto pursuant to H40-260 and Article VI, section 10(3), of the Montana Constitution (two-thirds);

(2) a motion to lift a call of the House pursuant to H50-30(3) (two-thirds);

(3) a motion to withdraw a bill from a committee after a committee hearing on the bill pursuant to H40-90 approved by not less than the number of members in the majority caucus currently serving in the House;

(4) a motion to remove legislation from its normal progress through the House as provided under H40-80(3) and reassign it unless otherwise specifically provided by these rules (by the number of members in the majority caucus currently serving in the house);

(5) a motion to change a vote pursuant to H50-210 (unanimous);

(6) a motion to call for cloture pursuant to H40-170(2) (two-thirds);

(7) a motion to approve a bill conferring immunity from suit as described in Article II, section 18, of the Montana Constitution (two-thirds);

(8) a motion to amend rules pursuant to H70-10(2) or suspend rules pursuant to H70-30 (two-thirds);

(9) a motion to record a vote pursuant to H50-200(2) (one representative);

(10) a motion to record a vote in the journal (two representatives);

(11) an appeal of the ruling of the presiding officer pursuant to H20-20(1) or H20-80(2) (three representatives);

(12) a motion to speak more than once on a debatable motion pursuant to H50-80(1) (unanimous vote);

(13) a motion to appeal the presiding officer's interpretation of the rules to the House Rules Committee pursuant to H70-50 (15 representatives).

Entire Legislature

(1) a motion to approve a bill proposing to amend the Montana Constitution pursuant to Article XIV, section 8, of the Montana Constitution (two-thirds of the entire Legislature).

H50-170. Reconsideration – time restriction. (1) Any representative may, within 1 legislative day of a vote, move to reconsider the House vote on any matter still within the control of the House.

(2) A motion to reconsider is a debatable motion, but the debate is limited to the motion. The debate on a motion to reconsider is limited to two proponents and two opponents to the motion and the debate may not address the substance of the matter for which reconsideration is sought. However, an inquiry may be made concerning the purpose of the motion to reconsider.

(3) A motion for reconsideration, unless tabled or replaced by a substitute motion, must be disposed of when made.

(4) When a motion for reconsideration fails, the question is finally settled. A motion for reconsideration may not be renewed or reconsidered.

(5) A motion to recall legislation from the Senate constitutes a motion to reconsider and is subject to the same rules.

(6) A motion for reconsideration is not in order on a vote to postpone to a day certain or to table legislation.

(7) There may be only one reconsideration vote on a specific issue on a legislative day.

H50-180. Renewing procedural motions. The House may renew a procedural motion if further House business has intervened.

H50-190. Tabling. (1) Under Order of Business No. 9, a representative may move to table any question, motion, or legislation before the House except the question of a quorum or a call of the House. The motion is nondebatable and may not be amended.

(2) When a matter has been tabled, a representative may move to take it from the table under Order of Business No. 9 on any legislative day.

H50-200. Voting – conflict of interest – present by electronic means.

(1) The representatives shall vote to decide any motion or question properly before the House. Each representative has one vote.

(2) The House may, without objection, use a voice vote on procedural motions that are not required to be recorded in the journal. If a representative rises and objects, the House shall record the vote.

(3) The House shall record the vote on all substantive questions. If the voting system is inoperable, the Chief Clerk shall record the representatives' votes by other means.

(4) A member who is present shall vote unless the member has disclosed a conflict of interest to the House.

(5) A member may be present for a vote by electronic means.

H50-210. Changing a vote – consent required. (1) A representative may move to change the representative's vote within 1 legislative day of the vote. The motion is nondebatable. The motion must be made on Order of Business No. 9, motions. All of the members present and voting are required to consent to the change in order for it to be effective.

(2) The representative making the motion shall first specify the bill number, the question, and the original vote tally. A vote may not be changed if it would affect the outcome of legislation.

(3) A vote change must be entered into the journal as a notation that the member's vote was changed. The original printed vote will not be reprinted to reflect the change.

(4) An error caused by a malfunction of the voting system may be corrected without a vote.

H50-220. Absentee votes – restrictions. (1) An excused representative may file an absentee vote authorization form to vote during the excused absence on any vote for which absentee voting is allowed.

(2) An excused representative shall sign an absentee vote authorization form that specifies the motion and the desired vote.

(3) The absentee vote authorization form must be handed in at the rostrum by the party whip or designated representative before voting on the motion has commenced.

(4) The absentee vote authorization may be revoked before the vote by the member who signed the authorization.

(5) Absentee voting is not allowed on third reading or on motions specified as present and voting pursuant to H50-70.

H50-230. Recess. The House may stand at ease or recess under any order of business by order of the Speaker or a majority vote. The recess may be ended at the call of the chair or at a time specified.

H50-240. Adjournment for a legislative day. (1) A representative may move that the House adjourn for that legislative day. The motion is

nondebatable and may be made under any order of business except Order of Business No. 7.

(2) A motion to adjourn for a legislative day must specify a date and time for the House to convene on the subsequent legislative day.

H50-250. Adjournment sine die. Subject to Article V, section 10(5), of the Montana Constitution, a representative may move that the House adjourn for the session. The motion is nondebatable and may be made under any order of business except Order of Business No. 7.

CHAPTER 6

Motions

H60-10. Proposal for consideration. (1) Every question presented to the House or a committee must be submitted as a definite proposition.

(2) A representative has the right to understand any question before the House and, under the authority of the presiding officer, may ask questions to exercise this right.

(3) Except as provided in H50-160 or as specifically provided for in these House Rules, a majority vote of representatives voting is necessary for a motion or question to pass.

H60-20. Nondebatable motions. The following motions, in addition to any other motion specifically designated, must be decided without debate:

- (1) to adjourn;
- (2) for a call of the House;
- (3) to recess or rise;
- (4) for parliamentary inquiry;
- (5) to table or to take from the table;
- (6) to call for the previous question or for cloture;
- (7) to amend a nondebatable motion;
- (8) to divide a question;
- (9) to suspend the rules; and
- (10) all incidental motions, such as motions relating to voting or of a general procedural nature.

H60-30. Motions allowed during debate. (1) When a question is under debate, only the following motions are in order. The motions have precedence in the following order:

- (a) to adjourn;
- (b) for a call of the House;
- (c) to recess or rise;
- (d) for a question of privilege;
- (e) to table or take from the table;
- (f) to call for the previous question or cloture;
- (g) to postpone consideration to a day certain;
- (h) to refer or rerefer; and
- (i) to propose amendments.

(2) This section does not allow a motion that would not otherwise be allowed under a particular order of business.

(3) Only one substitute motion is in order at any time.

H60-40. Motions to adjourn or recess. (1) A motion to adjourn or recess is always in order, except:

- (a) when the House is voting on another motion;
- (b) when the previous question has been ordered and before the final vote;
- (c) when a member entitled to the floor has not yielded for that purpose; or
- (d) when business has not been transacted after the defeat of a motion to adjourn or recess.

(2) A motion to adjourn sine die pursuant to H50-250 is subject to Article V, section 10(5), of the Montana Constitution.

(3) The vote by which a motion to adjourn or recess is carried or fails is not subject to a motion to reconsider.

H60-50. Motion to table. (1) A motion to table, if carried, has the effect of postponing action on the proposition to which it was applied until superseded by a motion to take from the table.

(2) After a vote on a motion to table is carried or fails, the motion cannot be reconsidered.

(3) A motion to table is not in order after the previous question has been ordered.

H60-60. Motion to postpone. A motion to postpone to a day certain may be amended and is debatable within narrow limits. The merits of the proposition that is the subject of the motion to postpone may not be debated.

H60-70. Motion to refer. When a motion is made to refer a subject to a standing committee or select committee, the question on the referral to a standing committee must be put first.

H60-80. Terms of debate on motion to refer or rerefer. (1) A motion to refer or rerefer is debatable within narrow limits. The merits of the proposition that is the subject of the motion may not be debated.

(2) A motion to refer or rerefer with instructions is fully debatable.

H60-100. Moving the previous question after a motion to table. (1) If a motion to table is made directly to a main motion, a motion for the previous question is not in order.

(2) If an amendment to a main motion is pending and a motion to table is made, the previous question may be called on the main motion, the pending amendment, and the motion to table the amendment.

H60-105. Motion to direct standing, select, special, or conference committee action. A representative may move that the House direct a standing, select, special, or conference committee take an action of:

(1) scheduling a bill in the committee's possession for a hearing and public testimony on a date certain; or

(2) acting on a bill, Governor's amendments, or Senate amendments in the committee's possession by a date certain.

H60-110. Standard motions. The following are standard motions:

(1) moving House bills or resolutions on second reading, "Mister/Madam Chairman, I move that when this committee does rise and report after having under consideration House Bill ___, that it recommend the same (do pass)/(do pass as amended)/(do not pass)."

(2) moving Senate bills and Senate amendments to House bills, "Mister/Madam Chairman, I move that when this committee does rise and report after having under consideration Senate Bill ___/Senate amendments to House Bill ___, that it recommend the same (be concurred in)/(be not concurred in)."

(3) Committee of the Whole floor amendments, "Mister/Madam Chairman, I move that House Bill ___/Senate Bill ___ be amended and request that the amendment be posted and deemed read."

(4) introducing visitors, "Mister/Madam Speaker/Chairman, I request that we be off the record and out of the journal."

(5) changing a vote, "Mister Speaker, I would like my vote changed on House Bill ___/Senate Bill ___ from (yes/no) to (yes/no). The question on the bill was () with a vote tally of ___ for and ___ against."

(6) question another representative, "Mister/Madam Speaker/Chairman, would Representative ___ yield to a question?"

CHAPTER 7

Rules

H70-10. House rules – amendment – report timing. (1) The House may adopt, through a House resolution passed by a majority of its members, rules to govern its proceedings.

(2) After adoption of the House rules, two-thirds of the representatives voting must vote in favor of the question to amend the rules.

(3) The Speaker shall refer to the House Rules Committee all resolutions for House rules and joint rules.

(4) The House Rules Committee shall report all resolutions for House rules and joint rules within 1 legislative day of referral.

H70-20. Tenure of rules. Rules adopted by the House remain in effect until removed by House resolution or until a new House is elected and takes office.

H70-30. Suspension of rules. The House may suspend a House rule on a motion approved by not less than two-thirds of the members voting.

H70-40. Supplementary rules. Mason's Manual of Legislative Procedure (2010) governs House proceedings in all cases not covered by House rules.

H70-50. Interpreting rules – appeal. The Speaker shall interpret all questions on House rules, subject to appeal by any 15 representatives to the House Rules Committee. Unless the delay would cause legislation to fail to meet a scheduled deadline, the House Rules Committee may consider and report on the appeal on the next legislative day. The decision of the House Rules Committee may be appealed to the House by any representative.

H70-60. Joint rules superseded. A House rule, insofar as it relates to the internal proceedings of the House, supersedes a joint rule.

Appendix

(1) Except as provided in subsections (2) through (4), legislation dealing with an enumerated subject must be referred to a standing committee as follows:

Agriculture: Agriculture; country of origin labeling for products; crops; crop insurance; farm subsidies; fuel produced from grain; grazing (other than state land leases); irrigation; livestock; poultry; and weed control.

Appropriations: Appropriations for the Legislature, general government, and bonding, including supplemental appropriations and the coal severance tax.

Business and Labor: Alcohol regulation other than taxation; associations; corporations; credit transactions; employment; financial institutions; gambling; insurance; labor unions; partnerships; private sector pensions and pension plans; professions and occupations other than the practice of law; salaries and wages; sales; secured transactions; securities regulation other than criminal provisions; sports other than hunting, fishing, and competition water sports; trade regulation; unemployment insurance; the Uniform Commercial Code; and workers' compensation.

Education: Higher education; home schools; K-12 education; religion in schools; school buildings and other structures; school libraries and university system libraries; school safety; school sports; school staff other than teachers; school transportation; students; teachers; and vocational education and training.

Ethics: Ethical standards applicable to members, officers, and employees of the House and ethical standards for lobbyists.

Energy, Technology, and Federal Relations: Energy generation and transmission; Indian reservations; international relations; interstate

cooperation and compacts, except those relating to law enforcement and water compacts; relations with the federal government; relations with sovereign Indian tribes; telecommunications; technology; and utilities other than municipal utilities.

Fish, Wildlife, and Parks: Fish; fishing; hunting; outdoor recreation; parks other than those owned by local governments; relations with federal and state governments concerning fish and wildlife; Virginia City and Nevada City; water sports; and wildlife.

Human Services: Developmentally disabled persons; disabled persons; health; health and disability insurance; housing; human services; mental illness or incapacity; retirement other than pensions and pension plans; senior citizens; tobacco regulation other than taxation; and welfare.

Judiciary: Abortion; arbitration and mediation; civil procedure; constitutional amendments; consumer protection; contracts; corrections; courts; criminal law; criminal procedure; discrimination; evidence; family law; fees imposed by or relating to the court system; guaranty; human rights; impeachment; indemnity; judicial system; landlord and tenant; law enforcement; liability and immunity from liability; minors; practice of law; privacy; property law; religion other than in schools; state law library; surety; torts; and trusts and estates.

Legislative Administration: Interim committees and matters related to legislative administration, staffing patterns, budgets, equipment, operations, and expenditures.

Local Government: Cities; consolidated governments; counties; libraries and parks owned or operated by local governments; local development; local government finance and revenue; local government officers and employees, local planning; special districts and other political subdivisions, except school districts; towns; and zoning.

Natural Resources: Board of Land Commissioners; dams, except for electrical generation; emission standards; environmental protection; extractive activities; fires and fire protection, except for a local government fire department; forests and forestry; hazardous waste; mines and mining; natural gas; natural resources; oil; pollution; solid waste; state land, except state parks; water and water rights; water bodies and water courses; and water compacts.

Rules: House rules; joint rules; legislative procedure; jurisdictions of committees; and rules of decorum.

State Administration: Administrative rules; arts and antiquities; ballots; elections; initiative and referendum procedures; military affairs; public contracts and procurement; public employee retirement systems; state buildings; state employees; state employee benefits; state equipment and property, except state lands and state parks; state government generally; state-owned libraries other than the state law library; veterans; and voting.

Taxation: Taxes other than fuel taxes.

Transportation: Fuel taxes; highways; railroads; roads; traffic regulation; transportation generally; vehicles; and vehicle safety.

(2) If a select committee is created to address a specific subject, then bills relating to that subject must be assigned to the select committee.

(3) (a) If legislation deals with more than one subject and the subjects are assigned to more than one committee, the bill must be assigned to a class one committee before a class two committee and to a class two committee before a class three committee. If there is a conflict of subjects between the same class of committees, then the bill must be assigned by the Speaker.

(b) If a bill contains substantive provisions dealing with policy and an appropriation, the bill must be referred to the committee with jurisdiction over

the subject addressed in the policy provisions. If the bill is reported from the committee to which it was assigned, the Speaker may rerefer the bill to the Appropriations Committee. The referral must be announced to the House. The rereferral does not require action or approval by the House, but may be overturned by a majority vote.

(4) If a committee chair upon consultation with the vice chair determines that the committee cannot effectively process all bills assigned to the committee because of time limitations, the chair shall, in writing, request the Speaker to reassign specific bills. The Speaker shall reassign the bills to an appropriate committee. The reassignments must be announced to the House. The reassignments do not require action or approval by the House, but may be overturned by a majority vote.

Adopted January 10, 2019

HOUSE RESOLUTION NO. 3

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING CONGRESSIONAL ENACTMENT OF LEGISLATION TO IMPROVE HEALTH CARE SERVICES FOR VETERANS.

WHEREAS, Montana has one of the highest ratios of veterans to population, with veterans making up 10% of Montana's total population and more than 13% of its population 18 years of age and older; and

WHEREAS, Montana continues to have one of the highest suicide rates in the country, and studies show that veterans are at higher risk of suicide in Western, rural states and account for more than one out of every five suicide deaths in Montana; and

WHEREAS, recent articles highlight an increase in "protest suicides" carried out by veterans in the parking lots of hospitals operated by the Veterans Health Administration, emphasizing once again the urgent need to deliver on mental health care needs for U.S. servicemen and women; and

WHEREAS, about three-fourths of Montana veterans are eligible for health care services through the U.S. Department of Veterans Affairs (VA) and about two-thirds of eligible Montana veterans are enrolled with the Montana VA health care system; and

WHEREAS, Montana has a clear and imminent interest in ensuring that the best level of care is provided to the state's veterans through the Montana VA health care system.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the United States Congress consider enacting legislation that would:

(1) expand the availability of VA mental health services and community-based transition assistance for individuals who have recently separated from military service with general or honorable discharges;

(2) establish new grant programs and additional opportunities for the VA to partner with state and local organizations on the delivery of mental health services for veterans, including services provided via telemedicine;

(3) require the VA to assess the capacity of its existing mental health workforce and establish a scholarship program for mental health professionals in training who commit to serving veterans after they graduate;

(4) require the VA to develop metrics and monitor its progress in accomplishing the goals and objectives outlined in its National Strategy for Preventing Veteran Suicide (2018-2028); and

(5) require the VA to assemble an inventory of its existing suicide prevention outreach efforts, including any partnerships with state and local entities, and to evaluate the outcomes of these efforts.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the Majority and Minority Leaders of the United States House of Representatives and the United States Senate, and to each member of the Montana Congressional Delegation.

Adopted April 16, 2019

HOUSE RESOLUTION NO. 4

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA EXPRESSING THE SENTIMENT THAT THE GOVERNOR DESIGNATE SEXUAL ASSAULT SURVIVORS' DAY ON THE FIRST THURSDAY IN APRIL OF EACH YEAR; AND REQUESTING THE GOVERNOR OF THE STATE OF MONTANA TO ISSUE A PROCLAMATION DECLARING THE FIRST THURSDAY IN APRIL OF EACH YEAR AS SEXUAL ASSAULT SURVIVORS' DAY.

WHEREAS, it is the sentiment if the House of Representatives that the purpose of Sexual Assault Survivors' Day is to recognize and honor the courage of survivors, bring awareness to the issue of sexual assault, and inform individuals on how they can stop sexual violence before it happens by promoting safety and respect; and

WHEREAS, the goal of Sexual Assault Survivors' Day is to raise public awareness about victims of sexual violence and educate communities on how to prevent it; and

WHEREAS, Sexual Assault Survivors' Day calls attention to the fact that sexual violence is widespread and impacts every person in the state; and

WHEREAS, the crimes of sexual assault and rape not only create victims but also secondary victims who also survive levels of trauma, and Sexual Assault Survivors' Day would honor those who are left to pick up the pieces alongside their loved ones; and

WHEREAS, rape, sexual assault, and sexual harassment harm our community and our state, and statistics show one in five women and one in 67 men will be raped at some point in their lives; and

WHEREAS, child sexual abuse prevention must be a priority to confront the reality that one in six boys and one in four girls will experience sexual assault before age 18; and

WHEREAS, on campus, one in five women and one in 16 men are sexually assaulted during their time in college; and

WHEREAS, our words shape the world around us, and whether a person speaks out against inappropriate talk or helps someone better understand these issues, a person's voice is powerful and necessary in this conversation; and

WHEREAS, individuals can embrace their voices to show their support for survivors, stand up to victim blaming, shut down rape jokes, correct harmful misconceptions, promote everyday consent, and practice healthy communication with kids; and

WHEREAS, we join advocates and communities across the country in taking action to honor the courage of survivors of sexual assault and prevent sexual violence, and each day of the year is an opportunity to create change for the future.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That it is the sentiment of the members of this House of Representatives that the Governor recognize the first Thursday in April of each year as Sexual Assault Survivors' Day.

BE IT FURTHER RESOLVED, that the House of Representatives requests the Governor of the State of Montana to designate the first Thursday in April of each year as Sexual Assault Survivors' Day and issue a proclamation recognizing that day and marking the day with appropriate ceremonies and activities.

BE IT FURTHER RESOLVED, that the Chief Clerk of the House deliver a copy of this resolution to the Governor of the State of Montana.

Adopted April 23, 2019

HOUSE RESOLUTION NO. 5

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA EXPRESSING THE SENTIMENT THAT PORNOGRAPHY IS A PUBLIC HEALTH HAZARD THAT MUST BE ADDRESSED THROUGH EDUCATION, PREVENTION, RESEARCH, AND POLICY CHANGE AT THE COMMUNITY AND SOCIETAL LEVEL.

WHEREAS, it is estimated that 93% of boys and 62% of girls view online pornography during adolescence; and

WHEREAS, due to advances in technology and the availability of the internet, young children are frequently exposed to pornography; and

WHEREAS, this early exposure is leading to low self-esteem and body image disorders, an increase in problematic sexual activity at younger ages, and greater likelihood of engaging in risky sexual behavior such as sending sexually explicit images, hookups, multiple sex partners, group sex, and using substances during sex as young adolescents; and

WHEREAS, exposure to pornography often serves as sex education for children and adolescents and shapes their sexual templates; and

WHEREAS, pornography is contributing to the sexualization of prepubescent children and teens in our society; and

WHEREAS, because pornography objectifies individuals, it teaches victims that they are to be used and teaches consumers of pornography to be users; and

WHEREAS, pornography normalizes violence and abuse of both adults and children by presenting rape and abuse as harmless; and

WHEREAS, many of the individuals used in pornography have been coerced into participating in pornography as victims of sex trafficking; and

WHEREAS, pornography increases sex trafficking of adults and children, as well as child sexual abuse and child pornography; and

WHEREAS, potential detrimental effects on the brain development and functioning of those who consume pornography include psychological and physical distress, deviant sexual arousal, difficulty in forming or maintaining intimate relationships, and problematic or harmful sexual behaviors and addiction; and

WHEREAS, recent research indicates that pornography is biologically addictive and over time a user will require more shocking material in order to become excited; and

WHEREAS, biological addiction to pornography contributes to increased risky sexual behaviors, extreme degradation, violence, and desire for abusive child sexual images and child pornography; and

WHEREAS, pornography use is linked to infidelity; and

WHEREAS, pornography has a detrimental effect on the family unit; and

WHEREAS, pornography is creating a public health crisis; and

WHEREAS, pornography perpetuates a sexually toxic environment; and

WHEREAS, in instances when federal obscenity laws have been enforced through prosecution in other parts of the country, pornographers in many places have responded by self-regulating; and

WHEREAS, an individual addicted to pornography may lack the capacity to overcome the pornography addiction alone; and

WHEREAS, efforts to prevent pornography exposure and addiction, educate individuals and families concerning the harms of pornography, and create recovery programs that hold broader influences accountable must be developed and promoted.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That it is the sentiment of the 66th House of Representatives of the State of Montana that pornography is a public health hazard leading to harmful individual and public health impacts and societal harms.

BE IT FURTHER RESOLVED, that the 66th House of Representatives of the State of Montana calls upon Montana prosecutors to vigorously enforce state sexual solicitation, child pornography, domestic violence, human trafficking, missing and murdered persons, rape, and sexual assault laws.

BE IT FURTHER RESOLVED, that it is the sentiment of the 66th House of Representatives of the State of Montana that there is a need for education, prevention, research, and policy change at the community and societal level in order to address the pornography epidemic that is harming the people of our state and nation.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Governor of the State of Montana, the Attorney General of the State of Montana, the President of the United States, the Attorney General of the United States, the Majority and Minority Leaders of the United States House of Representatives and the United States Senate, and the Montana Congressional Delegation.

Adopted April 23, 2019

Senate Joint Resolutions

SENATE JOINT RESOLUTION NO. 1

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ADOPTING THE JOINT LEGISLATIVE RULES.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the following Joint Rules be adopted:

JOINT RULES OF THE MONTANA SENATE AND HOUSE OF REPRESENTATIVES

CHAPTER 10

Administration

10-10. Time of meeting. Each house may order its time of meeting.

10-20. Legislative day – duration. (1) If either house is in session on a given day, that day constitutes a legislative day.

(2) A legislative day for a house ends either 24 hours after that house convenes for the day or at the time the house convenes for the following legislative day, whichever is earlier.

10-30. Schedules. The presiding officer of each house shall coordinate its schedule to accommodate the workload of the other house.

10-40. Adjournment – recess – meeting place. A house may not, without the consent of the other, adjourn or recess for more than 3 days or to any place other than that in which the two houses are sitting (Montana Constitution, Art. V, Sec. 10(5)). The procedure for obtaining consent is contained in Joint Rule 20-10.

10-50. Access of media – registration – decorum – sanctions. (1) Subject to the presiding officer's discretion on issues of decorum and order, a registered media representative may not be prohibited from photographing, televising, or recording a legislative meeting or hearing.

(2) The presiding officer shall authorize the issuance of cards to media representatives to allow floor access, and media representatives holding the cards are subject to placement on the floor by the presiding officer. The presiding officer may delegate enforcement of this rule to the office of the Secretary of the Senate, Chief Clerk of the House, the respective Sergeant-at-Arms, or the Legislative Information Officer. The privilege may be revoked or suspended for a violation of decorum and order as agreed to by the media representative upon application for registration.

(3) Registered media representatives may be subject to seating in designated areas. Overflow access will be in the gallery.

10-60. Conflict of interest. A member who has a personal or private interest in any measure or bill proposed or pending before the Legislature shall disclose the fact to the house to which the member belongs.

10-70. Telephone calls and internet access. (1) Long-distance telephone calls made by a member on a state telephone while the Legislature is in session or while the member is in travel status are considered official legislative business. These include but are not limited to calls made to constituencies, places of business, and family members. A member's access to the internet through a permissible server is a proper use of the state communication system if the use is for legislative business or is within the scope of permissible use of long-distance telephone calls.

(2) Session staff, including aides, may use state telephones for long-distance calls only if specifically authorized to do so by their legislative sponsor or supervisor. Sponsoring members and supervisors are accountable for use of state telephones and internet access by their staff, including aides, and may not authorize others to use state phones or state servers to access the internet.

(3) Permanent staff of the Legislature shall comply with executive branch rules applying to the use of state telephones.

(4) For purposes of this section, "state telephone" or "state phone" means a landline telephone or other telephone provided by the state.

10-80. Joint employees. The presiding officers of each house, acting together, shall:

(1) hire joint employees; and

(2) review a dispute or complaint involving the competency or decorum of a joint employee, and dismiss, suspend, or retain the employee.

10-85. Discrimination, harassment, and retaliation prohibited – adoption of policy. (1) Legislators, legislative employees, and all participants in the legislative process have the right to work free of discrimination, harassment, and retaliation when performing services in furtherance of legislative responsibilities, whether the offender is an employer, employee, or legislator.

(2) The policy of the Montana Legislature prohibiting discrimination, harassment, and retaliation, as recommended by the Legislative Council and approved by the Legislature by virtue of adoption of these joint rules, must be shared with members and staff during orientation and training and published separately as an appendix to the Joint Rules.

10-100. Legislative Services Division. (1) The staff of the Legislative Services Division shall serve both houses as required.

(2) Staff members shall:

(a) maintain personnel files for legislative employees; and

(b) prepare payrolls for certification and signature by the presiding officer and prepare a monthly financial report.

(3) The Legislative Services Division shall train journal clerks for both houses.

10-120. Engrossing and enrolling staff – duties. (1) The Legislative Services Division shall provide all engrossing and enrolling staff.

(2) The duties of the engrossing and enrolling staff are:

(a) to engross or enroll any bill or resolution delivered to them within 48 hours after it has been received, unless further time is granted in writing by the presiding officer of the house in which the bill originated; and

(b) to correct clerical errors, absent the objection of the sponsor of a bill, resolution, or amendment and the Secretary of the Senate or the Chief Clerk of the House of Representatives in any bill or amendment originating in the house by which the Clerk or Secretary is employed. The following kinds of clerical errors may be corrected:

(i) errors in spelling;

(ii) errors in numbering sections;

(iii) additions or deletions of underlining or lines through matter to be stricken;

(iv) material copied incorrectly from the Montana Code Annotated;

(v) errors in outlining or in internal references;

(vi) an error in a title caused by an amendment;

(vii) an error in a catchline caused by an amendment;

(viii) errors in references to the Montana Code Annotated; and

(ix) other nonconformities of an amendment with Bill Drafting Manual form.

(3) The engrossing and enrolling staff shall give notice in writing of the clerical correction to the Secretary of the Senate or the Chief Clerk of the House, who shall give notice to the sponsor of the bill or amendment. The form must be filed in the office of the amendments coordinator. A party receiving notice may register an objection to the correction by filing the objection in writing with the Secretary of the Senate or the Chief Clerk of the House by the end of the next legislative day following receipt of the notice. The Senate or House shall vote on whether or not to uphold the objection. If the objection is upheld, the Secretary of the Senate or the Chief Clerk of the House shall notify the Executive Director of the Legislative Services Division, and the engrossing staff shall change the bill to remove the correction or corrections to which the objection was made.

(4) For the purposes of this rule, “engrossing” means placing amendments in a bill.

10-130. Bills – sponsorship – style – format. (1) A bill must be sponsored by a member of the Legislature.

(2) A bill must be:

- (a) printed on paper with numbered lines;
- (b) numbered at the foot of each page (except page 1);
- (c) backed with a page of substantial material that includes spaces for notations for tracking the progress of the bill; and
- (d) introduced. Introduction constitutes the first reading of the bill.

(3) In a section amending an existing statute, matter to be stricken out must be indicated with a line through the words or part to be deleted, and new matter must be underlined.

(4) (a) Except as provided in subsection (4)(b), sections of the Montana Code Annotated repealed or amended in a bill must be stated in the title.

(b) (i) Sections of the Montana Code Annotated repealed or amended in a legislative referendum must be stated in the title unless the inclusion of those sections in the title would cause the title to cumulatively exceed a 100-word limit.

(ii) If the inclusion of sections of the Montana Code Annotated repealed or amended in a legislative referendum title would cause the title to cumulatively exceed 100 words, the title must include those sections that do not exceed the 100-word limit and include a reference to the total number of additional sections listed in the body of the bill that are excluded from the title due to the 100-word limit. Those additional sections excluded from the title must be listed in a section within the body of the bill after the enacting clause.

(5) Introduced bills must be reproduced on white paper and distributed to members.

(6) A legal review note or analysis produced by the Legislative Services Division Legal Services Office may not be attached to an introduced bill or posted on the Legislative Branch website unless requested by the sponsor of the bill.

(7) Prior to submitting legislation for introduction, the chief sponsor may add representatives and senators as cosponsors. A legislator may either sign on the front page of the legislation or sign or initial a cosponsor form supplied upon request by the Secretary of the Senate or the Chief Clerk of the House in order to be added as a cosponsor.

10-140. Voting on bills – constitutional amendments. (1) A bill may not become a law except by vote of the constitutionally required majority of all the members present and voting in each house (Montana Constitution, Art. V, Sec. 11(1)). On final passage, the vote must be taken by ayes and noes and the names of those voting entered on the journal (Montana Constitution, Art. V, Sec. 11(2)).

(2) Any vote in one house on a bill proposing an amendment to The Constitution of the State of Montana under circumstances in which there exists the mathematical possibility of obtaining the necessary two-thirds vote of the Legislature will cause the bill to progress as though it had received the majority vote.

(3) This rule does not prevent a committee from tabling a bill proposing an amendment to The Constitution of the State of Montana.

10-150. Recording and publication of voting. (1) Every vote of each member on each substantive question in the Legislature, in any committee, or in Committee of the Whole must be recorded and made available to the public. On final passage of any bill or joint resolution, the vote must be taken by ayes and noes and the names entered on the journal.

(2) (a) Roll call votes must be taken by ayes and noes and the names entered on the journal on adopting an adverse committee report and on those motions made in Committee of the Whole to:

- (i) amend;
- (ii) recommend passage or nonpassage;
- (iii) recommend concurrence or nonconcurrence; or
- (iv) indefinitely postpone.

(b) The text of all proposed amendments in Committee of the Whole must be recorded.

(3) A roll call vote must be taken on nonsubstantive questions on the request of two members who may, on any vote, request that the ayes and noes be spread upon the journal.

(4) Roll call votes and other votes that are to be made public but are not specifically required to be spread upon the journal must be entered in the minutes of the appropriate committee or of the appropriate house (Montana Constitution, Art. V, Sec. 11(2)). A copy of the minutes must be filed with the Montana Historical Society. If electronically recorded minutes are kept for a committee, a written log must also be kept that includes but is not limited to:

- (a) the date, time, and place of the meeting;
- (b) a list of the individual members of the public body, agency, or organization who were in attendance;
- (c) all matters proposed, discussed, or decided; and
- (d) at the request of any member, a record of votes by individual members for any votes taken.

10-160. Journal. Each house shall:

- (1) supply the Legislative Services Division with the contents of the daily journal to be stored on an automated system;
- (2) examine its journal and order correction of any errors; and
- (3) make a daily journal available to all members.

10-170. Journals – authentication – availability. (1) The journal of the Senate must be authenticated by the signature of the President and the journal of the House of Representatives must be authenticated by the signature of the Speaker.

(2) The Legislative Services Division shall make the completed journals available to the public.

CHAPTER 20

Relations With Other House

20-10. Consent for adjournment or recess. As required by Article V, section 10(5), of the Montana Constitution, the consent of the other house is required for adjournment or recess for more than 3 calendar days. Consent for adjournment is obtained by having the house wishing to adjourn send a

message to the other house and having the receiving house vote favorably on the request. The receiving house shall inform the requesting house of its consent or lack of consent. Consent is not required on or after the 87th legislative day.

CHAPTER 30

Committees

30-10. Joint committee chair – exception. Except as provided in Joint Rule 30-50 concerning the joint meetings of the Senate Finance and Claims Committee and the House Appropriations Committee, the chair of the Senate committee is the chair of all joint committees.

30-20. Voting in joint committees – exception. (1) Except for Rules Committees and conference committees, a member of a joint committee votes individually and not by the house to which the committee member belongs.

(2) Because the Rules Committees and conference committees are joint meetings of separate committees, in those committees the committees from each house vote separately. A majority of each committee shall agree before any action may be taken, unless otherwise specified by individual house rules.

30-30. Conference committees – subject matter restrictions. (1) If either house requests a conference committee and appoints a committee for the purpose of discussing an amendment on which the two houses cannot agree, the other house shall appoint a committee for the same purpose. The time and place of all conference committee meetings must be agreed upon by their chairs and announced from the rostrum. This announcement is in order at any time. Failure to make this announcement does not affect the validity of the legislation being considered. A conference committee meeting must be conducted as an open meeting, and minutes of the meeting must be kept.

(2) A conference committee, having conferred, shall report to the respective houses the result of its conference. A conference committee shall confine itself to consideration of the disputed amendment. The committee may recommend:

- (a) acceptance or rejection of each disputed amendment in its entirety; or
- (b) further amendment of the disputed amendment.

(3) (a) If either house requests a free conference committee and the other house concurs, appointments must be made in the same manner as provided in subsection (1). A free conference committee may discuss and propose amendments to a bill in its entirety and is not confined to a particular amendment. However, a free conference committee is limited to consideration of amendments that are within the scope of the title of the introduced bill.

(b) A free conference committee may not take executive action on an amendment to a bill implementing provisions of a general appropriation act that does not directly and substantively address the subject of the bill.

30-40. Conference committee – enrolling. A conference committee report must give clerical instructions for a corrected reference bill and for enrolling by referring to the reference bill version.

30-50. Committee consideration of general appropriation bills.

(1) All general appropriation bills must first be considered by a joint subcommittee composed of designated members of the Senate Finance and Claims Committee and the House Appropriations Committee, and then by each committee separately.

(2) Joint meetings of the House Appropriations Committee and the Senate Finance and Claims Committee must be held upon call of the chair of the House Appropriations Committee, who is chair of the joint committee.

(3) The committee chair of the Senate Finance and Claims Committee or of the House Appropriations Committee may be a voting member in the joint subcommittees if:

(a) either house has fewer members on the joint subcommittees;
(b) the chair represents the house with fewer members on the subcommittees;
and

(c) the chair is present for the vote at the time that a question is called. A vote may not be held open to facilitate voting by a chair.

30-60. Estimation of revenue. (1) The Revenue and Transportation Interim Committee shall introduce a House joint resolution for the purpose of estimating revenue that may be available for appropriation by the Legislature.

(2) (a) The committee must have prepared by December 1 for introduction during each regular session of the Legislature in which a revenue bill is under consideration an estimate of the amount of revenue projected to be available for legislative appropriation.

(b) The committee may prepare for introduction during a special session of the Legislature in which a revenue bill or an appropriation bill is under consideration an estimate of the amount of projected revenue. The revenue estimate is considered a subject specified in the call of a special session.

30-70. Appointment of interim committees. As provided for in section 5-5-211(6), MCA, 50% of interim committees must be selected from the following legislative standing committees:

- (1) Economic Affairs Interim Committee:
 - (a) Senate Agriculture, Livestock, and Irrigation Committee;
 - (b) Senate Business, Labor, and Economic Affairs Committee;
 - (c) Senate Finance and Claims Committee;
 - (d) House Agriculture Committee;
 - (e) House Business and Labor Committee;
 - (f) House Energy, Technology, and Federal Relations Committee; and
 - (g) House Appropriations Committee;
- (2) Education and Local Government Interim Committee:
 - (a) Senate Education and Cultural Resources Committee;
 - (b) Senate Local Government Committee;
 - (c) Senate Finance and Claims Committee;
 - (d) House Education Committee;
 - (e) House Local Government Committee; and
 - (f) House Appropriations Committee;
- (3) Children, Families, Health, and Human Services Interim Committee:
 - (a) Senate Public Health, Welfare, and Safety Committee;
 - (b) Senate Finance and Claims Committee;
 - (c) House Human Services Committee; and
 - (d) House Appropriations Committee;
- (4) Law and Justice Interim Committee:
 - (a) Senate Judiciary Committee;
 - (b) Senate Finance and Claims Committee;
 - (c) House Judiciary Committee; and
 - (d) House Appropriations Committee;
- (5) Revenue and Transportation Interim Committee:
 - (a) Senate Taxation Committee;
 - (b) Senate Highways and Transportation Committee;
 - (c) Senate Finance and Claims Committee;
 - (d) House Taxation Committee;
 - (e) House Transportation Committee; and
 - (f) House Appropriations Committee;
- (6) State Administration and Veterans' Affairs Interim Committee:
 - (a) Senate State Administration Committee;
 - (b) Senate Finance and Claims Committee;

- (c) House State Administration Committee; and
- (d) House Appropriations Committee;
- (7) Energy and Telecommunications Interim Committee:
 - (a) Senate Energy Committee;
 - (b) House Energy, Technology, and Federal Relations Committee;
 - (c) House Appropriations Committee; and
 - (d) Senate Finance and Claims Committee.

30-80. Appointment of committees other than standing or statutory interim committees. Members of committees other than standing or statutory interim committees shall be appointed in accordance with the rules of each house.

CHAPTER 40

Legislation

40-10. Amendment to state constitution. A bill must be used to propose an amendment to The Constitution of the State of Montana. The bill is not subject to the veto of the Governor (Montana Constitution, Art. VI, Sec. 10(1)).

40-20. Appropriation bills – introduction in House – feed bill. (1) All appropriation bills must originate in the House of Representatives.

(2) Appropriation bills for the operation of the Legislature must be introduced by the chair of the House Appropriations Committee.

(3) The provisions of a bill that implements provisions of a general appropriation act must directly and substantively relate to a corresponding provision of the general appropriation act. When a bill that implements provisions of a general appropriation act is transmitted from the Senate to the House for concurrence, the House may refer the bill to the House Appropriations Committee for a joint meeting with the appropriate house standing committee for public review and consideration prior to action by the House Committee of the Whole on second reading.

40-30. Effective dates. (1) Except as provided in subsections (2) through (4), a statute takes effect on October 1 following its passage and approval unless a different time is prescribed in the enacting legislation.

(2) A law appropriating public funds for a public purpose takes effect on July 1 following its passage and approval unless a different time is prescribed in the enacting legislation.

(3) A statute providing for the taxation or imposition of a fee on motor vehicles takes effect on the first day of January following its passage and approval unless a different time is prescribed in the enacting legislation.

(4) A joint resolution takes effect on its passage unless a different time is prescribed in the joint resolution.

40-40. Bill requests and introduction – limits and procedures – drafting priority – agency and committee bills. (1) Prior to a regular session, a person entitled to serve in that session, referred to as a “member”, or a legislative committee is entitled to request bill drafting services from the Legislative Services Division. Deadlines for requesting certain types of bills during a legislative session are contained in Joint Rule 40-50.

(a) Prior to 5 p.m. on December 5 preceding a regular session of the Legislature, a member may request an unlimited number of bills and resolutions to be prepared by the Legislative Services Division for introduction in the regular session.

(b) After 5 p.m. on December 5, a member may request no more than seven bills or resolutions to be prepared by the Legislative Services Division. At least five of the seven bills or resolutions must be requested before the regular session convenes.

(c) After December 5, a member, in the member's discretion, may grant to any other member any of the remaining bill or resolution requests the granting member has not used. A bill requested by an individual may not be transferred to another legislator but may be introduced by another legislator. The requestor must pick up the bill and sign a receipt indicating delivery of the bill and may either introduce the bill or give the bill to another legislator for introduction.

(d) These limitations on bill and resolution requests do not apply to:

- (i) Code Commissioner bills;
- (ii) a bill or resolution requested by a standing committee; and
- (iii) a bill or resolution requested by a member at the request of a newly elected state official if so designated.

(2) (a) Except as provided in subsection (2)(b) or this subsection, the staff of the Legislative Services Division shall work on bill draft requests in the order received. After a member has requested the drafting of five bills, the sixth bill request and all subsequent bill requests of that member must receive a lower drafting priority than all other bills of members not in excess of five per member. The Speaker of the House, the minority leader of the House, the President of the Senate, and the minority leader of the Senate may each direct the staff of the Legislative Services Division to assign a higher priority to 20 draft requests. The staff of the Legislative Services Division shall assign a higher priority to any bill draft request when jointly directed by the President of the Senate, the minority leader of the Senate, the Speaker of the House, and the minority leader of the House.

(b) Except for bill draft requests described in subsection (1)(d)(iii), if a draft bill has not been received by the Legislative Services Division by November 15 for a bill by request of an agency or entity, the draft loses its priority under this rule.

(3) Bills and resolutions must be reviewed by the staff of the Legislative Services Division prior to introduction for proper format, style, and legal form. The staff of the Legislative Services Division shall store bills on the automated bill drafting equipment and shall print and deliver them to the requesting members. The original bill back must be signed to indicate review by the Legislative Services Division. A bill may not be introduced unless it is so signed.

(4) (a) During a session, a bill may be introduced by endorsing it with the name of a member and presenting it to the Chief Clerk of the House of Representatives or the Secretary of the Senate. Bills or joint resolutions may be sponsored jointly by Senate and House members. A jointly sponsored bill must be introduced in the house in which the member whose name appears first on the bill is a member. The chief joint sponsor's name must appear immediately to the right of the first sponsor's name, and the chief sponsor may not be changed. Except as provided in subsection (4)(b), in each session of the Legislature, bills, joint resolutions, and simple resolutions must be numbered consecutively in separate series in the order of their receipt.

(b) The first 15 House bills may be reserved for preintroduced bills.

(5) (a) Except as provided in subsection (5)(b)(ii), any bill requested by an interim or statutory legislative committee or on behalf of an administrative or executive agency or department through an interim or statutory committee must be so indicated by placing after the names of the sponsors the phrase "By Request of the..... (Name of committee or agency)". The phrase may not be added to an introduced bill by amendment. The phrase may not be placed on a bill unless requested by a statutory or interim committee prior to the convening of the session. Unless requested by an individual member, a bill

draft request submitted at the request of an agency must be submitted to, reviewed by, and requested by the appropriate interim or statutory committee. Except as provided in subsection (5)(b), an agency or committee bill request must be preintroduced or the request is canceled. Preintroduction of an agency, committee, or individual legislator’s bill must occur no later than 5 p.m. on December 15th prior to the convening of a regular legislative session. Preintroduction is accomplished when the Legislative Services Division receives a signed preintroduction form.

(b) (i) The preintroduction requirement does not apply to an office held by an elected official during the official’s first year in that office or to bills requested by a joint select or joint special committee appointed prior to the convening of the legislative session to address a specific issue. Bills requested under this subsection (5)(b) may include the phrase “By Request of.....(Name of official or committee)”.

(ii) An official newly elected to a statewide office may request in writing that the Legislative Services Division remove the phrase “By Request of" from bills requested by the outgoing official of that office.

(6) Bills may be preintroduced, numbered, and reproduced prior to a legislative session by the staff of the Legislative Services Division. Actual signatures of persons entitled to serve as members in the ensuing session may be obtained on a consent form from the Legislative Services Division and the sponsor’s name printed on the bill. Additional sponsors may be added on motion of the chief sponsor at any time prior to a standing committee report on the bill. These names will be forwarded to the Legislative Services Division to be included on the face of the bill following standing committee approval.

40-50. Schedules for drafting requests and bill introduction. (1) The following schedule must be followed for submission of drafting requests.

Request Deadline
5:00 P.M.
Legislative Day

● General Bills and Resolutions	12
● Revenue Bills	17
● Committee Bills and Resolutions	36
● Committee Revenue Bills and Bills Proposing Referenda	56
● Committee Bills implementing provisions of a general appropriation act	56
● Interim study resolutions	60
● Appropriation Bills	45
● Resolutions to express confirmation of appointments	No Deadline
● Bills repealing or directing the amendment or adoption of administrative rules and joint resolutions advising or requesting the repeal, amendment, or adoption of administrative rules	No Deadline

(2) (a) A bill or resolution must be introduced at least 6 legislative days prior to the applicable transmittal deadline as provided in Joint Rule 40-200 except for:

- (i) a session committee bill or resolution;
- (ii) a bill repealing or directing the amendment or adoption of administrative rules;
- (iii) a joint resolution advising or requesting the repeal, amendment, or adoption of administrative rules; or

(iv) a resolution expressing confirmation.

(b) Bills and resolutions must be introduced within 2 legislative days after delivery. Failure to comply with the introduction deadline results in the bill draft being canceled.

40-60. Joint resolutions. (1) A joint resolution must be adopted by both houses and is not approved by the Governor. It may be used to:

(a) express desire, opinion, sympathy, or request of the Legislature;

(b) recognize relations with other governments, sister states, political subdivisions, or similar governmental entities;

(c) request, but not require, a legislative entity to conduct an interim study;

(d) adopt, amend, or repeal the joint rules;

(e) approve construction of a state building under section 18-2-102 or 20-25-302, MCA;

(f) deal with disasters and emergencies under Title 10, specifically as provided in sections 10-3-302(3), 10-3-303(3), 10-3-303(4), and 10-3-505(5), MCA;

(g) submit a negotiated settlement under section 39-31-305(3), MCA;

(h) declare or terminate an energy emergency under section 90-4-310, MCA;

(i) ratify or propose amendments to the United States Constitution;

(j) advise or request the repeal, amendment, or adoption of a rule in the Administrative Rules of Montana; or

(k) approve the organization of a new community college district under section 20-15-209, MCA.

(2) A joint resolution may not be used for purposes of congratulating or recognizing an individual or group achievement. Recognition of individual or group achievements is handled on special orders of the day.

(3) Except as otherwise provided in these rules or The Constitution of the State of Montana, a joint resolution is treated in all respects as a bill.

(4) A copy of every joint resolution must be transmitted after adoption to the Secretary of State by the Secretary of the Senate or the Chief Clerk of the House.

40-65. Appropriation required for bills requesting interim studies.

(1) A bill including a request for an interim study may not be transmitted to the Governor unless the bill contains an appropriation sufficient to conduct the study. The bill must include a contingent voidness section that would void the bill if an appropriation is not included. A fiscal note may be requested for a bill requesting an interim study if the appropriation does not appear to be sufficient.

(2) A Senator may introduce a bill that includes a request for an interim study in the Senate without an appropriation, but the bill may not be transmitted to the Governor unless the bill contains an appropriation added in the House that is sufficient to conduct the study.

40-70. Bills with same purpose -- vetoes. (1) A bill may not be introduced or received in a house after that house, during that session, has finally rejected a bill designed to accomplish the same purpose, except with the approval of the Rules Committee of the house in which the bill is offered for introduction or reception.

(2) Failure to override a veto does not constitute final rejection.

40-80. Reproduction of full statute required. A statute may not be amended or its provisions extended by reference to its title only, but the statute section that is amended or extended must be reproduced or published at length.

40-90. Bills -- original purpose. A law may not be passed except by bill. A bill may not be so altered or amended on its passage through either house as to change its original purpose (Montana Constitution, Art. V, Sec. 11(1)).

40-100. Fiscal notes. (1) All bills reported out of a committee of the Legislature, including interim committees, having a potential effect on the revenues, expenditures, or fiscal liability of the state, local governments, or public schools, except appropriation measures carrying specific dollar amounts, must include a fiscal note incorporating an estimate of the fiscal effect. The Legislative Services Division staff shall indicate at the top of each bill prepared for introduction that a fiscal note may be necessary under this rule. Fiscal notes must be requested by the presiding officer of either house, who, at the time of introduction or after adoption of substantive amendments to an introduced bill, shall determine the need for the note, based on the Legislative Services Division staff recommendation.

(2) The Legislative Services Division shall make available an electronic copy of any bill for which it has been determined a fiscal note may be necessary to the Budget Director immediately after the bill has been prepared for introduction and delivered to the requesting member. The Budget Director may proceed with the preparation of a fiscal note in anticipation of a subsequent formal request. A bill with financial implications for a local government or school district must comply with subsection (4).

(3) The Budget Director, in cooperation with the governmental entity or entities affected by the bill, is responsible for the preparation of the fiscal note. Except as provided in subsection (4), the Budget Director shall return the fiscal note within 6 days unless further time is granted by the presiding officer or committee making the request, based upon a written statement from the Budget Director that additional time is necessary to properly prepare the note.

(4) (a) A bill that may require a local government or school district to perform an activity or provide a service or facility that requires the direct expenditure of additional funds without a specific means to finance the activity, service, or facility in violation of section 1-2-112 or 1-2-113, MCA, must be accompanied, at the time that the bill is presented for introduction, by an estimate of all direct and indirect fiscal impacts on the local government or school district. The estimate of the fiscal impacts must be prepared by the Budget Director in cooperation with a local government or school district affected by the bill.

(b) The Budget Director has 10 days to prepare the estimate. Upon completion of the estimate, the Budget Director shall submit it to the presiding officer and the chief sponsor of the bill.

(5) A completed fiscal note must be submitted by the Budget Director to the presiding officer who requested it. The presiding officer shall notify the bill's chief sponsor of the completed fiscal note and request the chief sponsor's signature. The chief sponsor has 1 legislative day after delivery to review the fiscal note and to discuss the findings with the Budget Director, if necessary. After the legislative day has elapsed, all fiscal notes must be reproduced and placed on the members' desks, either with or without the chief sponsor's signature.

(6) A fiscal note must, if possible, show in dollar amounts:

- (a) the estimated increase or decrease in revenues or expenditures;
- (b) costs that may be absorbed without additional funds; and
- (c) long-range financial implications.

(7) The fiscal note may not include any comment or opinion relative to merits of the bill. However, technical or mechanical defects in the bill may be noted.

(8) A fiscal note also may be requested, with the approval of the presiding officer, on a bill and on an amended bill by:

- (a) a committee considering the bill;
- (b) a majority of the members of the house in which the bill is to be considered, at the time of second reading; or
- (c) the chief sponsor.

(9) The Budget Director shall prepare and deliver an amended fiscal note on an amended bill within 3 days of the request by the presiding officer; otherwise the bill may proceed without the updated fiscal note.

(10) The Budget Director shall make available on request to any member of the Legislature all background information used in developing a fiscal note.

(11) If a bill requires a fiscal note, the bill may not be reported from a committee for second reading unless the bill is accompanied by the fiscal note.

(12) (a) If the budget director fails to prepare and submit a fiscal note in a timely fashion in accordance with this rule, the presiding officer of each house may request the preparation of a fiscal note by the Legislative Fiscal Division, which shall prepare a fiscal note for the bill.

(b) The presiding officer of the originating chamber shall designate which fiscal note accompanies the bill or is used in the preparation of the status sheet if more than one fiscal note is prepared.

40-110. Sponsor's fiscal note rebuttal. (1) If a sponsor elects to prepare a sponsor's fiscal note rebuttal, the sponsor shall make the election as provided and return the completed sponsor's fiscal note rebuttal form to the presiding officer within 4 days of the election. The form must identify the bill number, the sponsor of the bill, the date prepared, the version of the fiscal note being rebutted, the reasons the sponsor disagrees with the fiscal note, the items or assumptions in the fiscal note that the sponsor believes are incorrect, and the sponsor's estimate of the fiscal impact, if an estimate is available.

(2) The presiding officer may grant additional time to the sponsor for preparation of the sponsor's fiscal note rebuttal.

(3) Upon receipt of the completed sponsor's fiscal note rebuttal form, the presiding officer shall refer it to the committee hearing the bill. If the bill is printed, the form must be identified as a sponsor's fiscal note rebuttal, reproduced, and placed on the members' desks.

(4) The Legislative Services Division shall provide forms for preparation of sponsors' fiscal note rebuttals and shall print the completed sponsors' fiscal note rebuttal forms on a different color paper than the fiscal notes prepared by the Budget Director.

40-120. Substitute bills. (1) A committee may recommend that every clause in a bill be changed and that entirely new material be substituted so long as the new material is relevant to the title and subject of the original bill. The substitute bill is considered an amendment and not a new bill.

(2) The proper form of reporting a substitute bill by a committee is to propose amendments to strike out all of the material following the enacting clause, to substitute the new material, and to recommend any necessary changes in the title of the bill.

(3) If a committee report is adopted that recommends a substitute for a bill originating in the other house, the substitute bill must be printed and reproduced.

40-130. Reading of bills. Prior to passage, a bill, other than a bill requested by a joint select or joint special committee as provided in 40-40(5)(b), must be read three times in the house in which it is under consideration. It may be read either by title or by summary of title. Introduction constitutes the first reading of the bill.

40-140. Second reading – bill reproduction. (1) If the majority of a house adopts a recommendation for the passage of a bill originating in that house after the bill has been returned from a committee with amendments, the bill must be reproduced on yellow paper with all amendments incorporated into the copies.

(2) If a bill has been returned from a committee without amendments, only the first sheet must be reproduced on yellow paper, and the remainder of the text may be incorporated by reference to the preceding version of the entire bill.

(3) A bill requested by and heard by a joint select or joint special committee, as provided in 40-40(5)(b), may be referred directly to second reading. If the bill is passed by the house of origin, the bill must be transmitted to the other house, and if the bill was not amended, it may be placed on second reading without the need for referral to a committee.

40-150. Engrossing. (1) When a bill has been reported favorably by Committee of the Whole of the house in which it originated and the report has been adopted, the bill must be engrossed if the bill is amended. Committee of the Whole amendments must be included in the engrossed bill. If the bill is not amended, the bill must be sent to printing. The bill must be placed on the calendar for third reading on the legislative day after receipt.

(2) Copies of the engrossed bill to be distributed to members are reproduced on blue paper. If a bill is unamended by the Committee of the Whole and contains no clerical errors, it is not required to be reprinted. Only the first sheet must be reproduced on blue paper, with the remainder of the text incorporated by reference to the preceding version of the entire bill.

(3) If a bill is amended by a standing committee in the second house, the amendments must be included in a tan-colored bill and distributed in the second house for second reading consideration. If the bill is amended in Committee of the Whole, the amendments must be included in a salmon-colored reference bill and distributed in the second house for third reading. If the bill passes on third reading, copies of the reference bill must be distributed in the original house. The original house may request from the second house a specified number of copies of the amendments to be printed.

40-160. Enrolling. (1) When a bill has passed both houses, it must be enrolled. An original and two duplicate printed copies of the bill must be enrolled, free from all errors, with a margin of two inches at the top and one inch on each side. In sections amending existing statutes, new matter must be underlined and deleted matter must be shown as stricken.

(2) When the enrolling is completed, the bill must be examined by the sponsor.

(3) The correctly enrolled bill must be delivered to the presiding officer of the house in which the bill originated. The presiding officer shall sign the original and two copies of each bill not later than the next legislative day after it has been reported correctly enrolled, unless the bill is delivered on the last legislative day, in which case the presiding officer shall sign it that day. The fact of signing must be announced by the presiding officer and entered upon the journal no later than the next legislative day. At any time after the report of a bill correctly enrolled and before the signing, if a member signifies a desire to examine the bill, the member must be permitted to do so. The bill then must be transmitted to the other house where the same procedure must be followed.

(4) A bill that has passed both houses of the Legislature by the 90th day may be:

- (a) enrolled;
- (b) clerically corrected by the presiding officers, if necessary;

(c) signed by the presiding officers; and

(d) delivered to the Governor or, in the case of a bill proposing a referendum, to the Secretary of State, not later than 5 working days after the 90th legislative day.

(5) All journal entries authorized under this rule must be entered on the journal for the 90th day.

(6) The original and two copies signed by the presiding officer of each house must be presented to the Governor or the Secretary of State, as applicable, in return for a receipt. A report then must be made to the house of the day of the presentation, which must be entered on the journal.

(7) The original must be filed with the Secretary of State. Signed copies with chapter numbers assigned pursuant to section 5-11-204, MCA, must be filed with the Clerk of the Supreme Court and the Legislative Services Division.

40-170. Amendment by second house. (1) Amendments to a bill by the second house may not be further amended by the house in which the bill originated, but must be either accepted or rejected. A bill amended by the second house when the effect of the combined amendments is to return the bill to the form that the bill passed the house in which the bill originated is not considered to have been amended and need not be returned to the house of origin for acceptance or rejection of the amendments. If the amendments are rejected, a conference committee may be requested by the house in which the bill originated. If the amendments are accepted and the bill is of a type requiring more than a majority vote for passage, the bill again must be placed on third reading in the house of origin.

(2) The vote on third reading after concurrence in amendments is the vote of the house of origin that must be used to determine if the required number of votes has been cast.

40-180. Final action on a bill. (1) When a bill being heard by the second house has received its third reading or has been rejected, the second house shall transmit it as soon as possible to the original house with notice of the second house's action.

(2) A bill that reduces revenue and that contains a contingent voidness provision may not be transmitted to the Governor unless there is an identified corresponding reduction in an appropriation contained in the general appropriations act.

40-190. Transmittal of bills between houses – referral – hearing.

(1) Each house shall transmit to the other with any bill all relevant papers.

(2) When a House bill is transmitted to the Senate, the Secretary of the Senate shall give a dated receipt for the bill to the Chief Clerk of the House. When a Senate bill is transmitted to the House of Representatives, the Chief Clerk of the House shall give a dated receipt to the Secretary of the Senate.

(3) Transmitted bills must be referred to committee and scheduled for hearing.

40-200. Transmittal deadlines – two-thirds vote requirement.

(1) (a) A bill or amendment transmitted after the deadline established in this subsection (1) may be considered by the receiving house only upon approval of two-thirds of its members present and voting. If the receiving house does not so vote, the bill or amendment must be held pending in the house to which it was transmitted.

(b) (i) A bill, except for an appropriation bill, a revenue bill, a bill proposing a referendum, an interim study resolution, or amendments considered by joint committee, must be transmitted from one house to the other on or before the 45th legislative day.

(ii) Amendments, except to appropriation bills, committee bills implementing the general appropriations bill, the revenue estimating resolution, interim study resolutions, bills proposing referenda, and revenue bills, must be transmitted from one house to the other on or before the 73rd legislative day.

(c) (i) Revenue bills and bills proposing referenda must be transmitted to the other house on or before the 67th legislative day.

(ii) Amendments to revenue bills and bills proposing referenda, received from the other house, must be transmitted to the house of origin on or before the 80th legislative day.

(iii) A revenue bill is one that either increases or decreases revenue by enacting, eliminating, increasing, or decreasing taxes, fees, or fines.

(d) (i) Appropriation bills and any bill implementing provisions of a general appropriation bill must be transmitted to the Senate on or before the 67th legislative day. A fund transfer within the state treasury is not an appropriation for purposes of this section.

(ii) Senate amendments to appropriation bills must be transmitted by the Senate to the House on or before the 80th legislative day.

(2) (a) A joint resolution introduced pursuant to 5-5-227, MCA, for the purpose of estimating revenue available for appropriation by the Legislature must be transmitted to the Senate no later than the 60th legislative day.

(b) Amendments to the revenue estimating resolution must be transmitted to the body in which the resolution was introduced no later than the 82nd legislative day.

(3) Bills repealing or directing the amendment or adoption of administrative rules and joint resolutions advising or requesting the repeal, amendment, or adoption of administrative rules may be transmitted at any time during a session.

(4) Interim study resolutions must be transmitted from one house to the other on or before the 85th legislative day.

40-210. Governor's veto. (1) Except as provided in 40-65 and 40-180, each bill passed by the Legislature must be submitted to the Governor for the Governor's signature. This does not apply to:

- (a) bills proposing amendments to The Constitution of the State of Montana;
- (b) bills ratifying proposed amendments to the United States Constitution;
- (c) resolutions; and
- (d) referendum measures of the Legislature.

(2) If the Governor does not sign or veto the bill within 10 days after its delivery, the bill becomes law.

(3) The Governor shall return a vetoed bill to the Legislature with a statement of reasons for the veto.

(4) If after receipt of a veto message, two-thirds of the members of each house present approve the bill, it becomes law.

(5) If the Legislature is not in session when the Governor vetoes a bill, the Governor shall return the bill with reasons for the veto to the Legislature as provided by law. The Legislature may be polled on a bill that it approved by two-thirds of the members present or it may be reconvened to reconsider any bill so vetoed (Montana Constitution, Art. VI, Sec. 10).

(6) The Governor may veto items in appropriation bills, and in these instances the procedure must be the same as upon veto of an entire bill (Montana Constitution, Art. VI, Sec. 10).

40-220. Response to Governor's veto. (1) When the presiding officer receives a veto message, the presiding officer shall read it to the members over the rostrum. After the reading, a member may move that the Governor's veto be overridden.

(2) A vote on the motion is determined by roll call. If two-thirds of the members present vote “aye”, the veto is overridden. If two-thirds of the members present do not vote “aye”, the veto is sustained.

40-230. Governor’s recommendations for amendment – procedure.

(1) The Governor may return any bill to the Legislature with recommendations for amendment. The Governor’s recommendations for amendment must be considered first by the house in which the bill originated.

(2) If the Legislature passes the bill in accordance with the Governor’s recommendations, it shall return the bill to the Governor for reconsideration. The Governor may not return a bill to the Legislature a second time for amendment.

(3) If the Governor returns a bill to the originating house with recommendations for amendment, the house shall reconsider the bill under its rules relating to amendments offered in Committee of the Whole.

(4) The bill then is subject to the following procedures:

(a) The originating house shall transmit to the second house, for consideration under its rules relating to amendments in Committee of the Whole, the bill and the originating house’s approval or disapproval of the Governor’s recommendations.

(b) If both houses approve the Governor’s recommendations, the bill must be returned to the Governor for reconsideration.

(c) If both houses disapprove the Governor’s recommendations, the bill must be returned to the Governor for reconsideration.

(d) If one house disapproves the Governor’s recommendations and the other house approves, then either house may request a conference committee, which may be a free conference committee.

(i) If both houses adopt a conference committee report, the bill in accordance with the report must be returned to the Governor for reconsideration.

(ii) If a conference committee fails to reach agreement or if its report is not adopted by both houses, the Governor’s recommendations must be considered not approved and the bill must be returned to the Governor for further consideration.

CHAPTER 60

Rules

60-05. Source and precedent of legislative rules of the Montana Legislature. (1) The legislative rules of the Montana Legislature are derived from several sources listed below and take precedence in the following order:

- (a) constitutional provisions and judicial decisions on the constitution;
- (b) adopted legislative rules of the Montana Legislature;
- (c) statutory provisions;
- (d) adopted parliamentary authority; and
- (e) parliamentary law.

(2) Legislative rules passed by one legislature or statutory provisions governing the legislative process are not binding on a subsequent legislature.

60-10. Suspension of joint rule – change in rules. (1) A joint rule may be repealed, amended, or adopted only with the concurrence of both houses. A motion or a joint rule resolution to repeal, amend, or adopt a joint rule must be referred to the Rules Committee. A joint rule may be repealed, amended, or adopted only with the concurrence of a majority of the members voting in both houses.

(2) A joint rule governing the procedure for handling bills may be temporarily suspended by the consent of two-thirds of the members of either house, insofar as it applies to the house suspending it.

(3) Any Rules Committee report recommending a change in the joint rules must be referred to the other house. Any new rule or any change in the rules of either house must be transmitted to the other house for informational purposes.

(4) Upon adoption of any change, the Secretary of the Senate and the Chief Clerk of the House of Representatives shall provide the office of the Legislative Services Division:

(a) one copy of all motions or resolutions amending Senate, House, or joint rules; and

(b) copies of all minutes and reports of the Rules Committees.

60-20. Reference to Mason's Manual. Mason's Manual of Legislative Procedure (2010) governs the proceedings of the Senate and the House of Representatives in all cases not covered by these rules.

60-30. Publication and distribution of joint rules. (1) The Legislative Services Division shall codify and publish in one volume:

(a) the rules of the Senate;

(b) the rules of the House of Representatives; and

(c) the joint rules of the Senate and the House of Representatives.

(2) After the rules have been published, the Legislative Services Division shall distribute copies as directed by the Senate and the House of Representatives.

60-40. Tenure of joint rules. The joint rules remain in effect until removed by a joint resolution or until a new Legislature is elected and takes office.

Adopted February 6, 2019

SENATE JOINT RESOLUTION NO. 3

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF ALTERNATIVE SEPTIC SYSTEMS AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 67TH LEGISLATURE.

WHEREAS, according to the Environmental Protection Agency, more than one in five households in the United States depend on septic systems to treat wastewater through both natural and technological processes, typically beginning with solids settling in a septic tank, and ending with wastewater treatment in the soil via the drainfield; and

WHEREAS, septic systems can protect public health, preserve valuable water resources, and maintain economic vitality in a community; and

WHEREAS, septic systems are a cost-effective and long-term option for treating wastewater, particularly in less densely populated areas; and

WHEREAS, there is no one-size-fits-all type of septic system; septic system design is specific to the soil type, site conditions, and usage levels; and

WHEREAS, a thorough review of septic system regulations in Montana and other states that includes an examination of alternative septic systems would benefit public health, the environment, and residents in rural communities.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) evaluate current state and local regulations for designing and permitting septic systems and compare those regulations to other states;

(2) assimilate information from case studies and research on septic system programs in Montana and other states;

(3) research funding needs and potential funding sources; and

(4) examine alternative septic systems and provide recommendations to encourage the use of alternative septic systems.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 2, 2019

SENATE JOINT RESOLUTION NO. 4

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING CONGRESS TO REAUTHORIZE FUNDING FOR RECLAMATION OF ABANDONED MINE LANDS.

WHEREAS, the 109th Congress in 2006 passed amendments to the Surface Mining Control and Reclamation Act of 1977 to sunset funding for abandoned mine land reclamation programs in Montana and the United States; and

WHEREAS, the Montana Abandoned Mine Lands Program and the Crow Tribe Abandoned Mine Land Program protect Montana citizens and the environment by successfully reclaiming historic abandoned mines; and

WHEREAS, funding for abandoned mine reclamation programs expires September 30, 2021 meaning programs in Montana would no longer have money to reclaim historic abandoned mines; and

WHEREAS, in Montana, 6,500 mines with an unfunded liability of more than \$130 million would benefit from continued funding of the program.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature supports continued funding for the reclamation of abandoned mine lands beyond the September 30, 2021, date set by the United States Congress.

BE IT FURTHER RESOLVED, that the United States Congress should reauthorize funding for the reclamation of abandoned mine lands before the 2021 expiration date.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Montana Congressional Delegation, the United States Secretary of the Interior, and the Office of Surface Mining Reclamation and Enforcement.

Adopted April 8, 2019

SENATE JOINT RESOLUTION NO. 6

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT MONTANA'S CONGRESSIONAL DELEGATION WORK TO RETURN MANAGEMENT OF MONTANA'S RECOVERED GRIZZLY BEAR POPULATIONS TO THE STATE OF MONTANA AND INITIATE FURTHER REVIEW OF MONTANA'S GRIZZLY BEAR POPULATIONS THAT MEET THE CRITERIA FOR DELISTING.

WHEREAS, the U.S. Congress authorized the Endangered Species Act of 1973; and

WHEREAS, the Endangered Species Act defined "endangered species" to mean "any species which is in danger of extinction throughout all or a significant portion of its range"; and

WHEREAS, the Endangered Species Act defined "threatened species" to mean "any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range"; and

WHEREAS, the grizzly bear was designated as a "threatened species" in the conterminous United States under the Endangered Species Act on July 28, 1975; and

WHEREAS, the Endangered Species Act was amended by the U.S. Congress in 1978 so that the new definition of "species" included a "distinct population segment" that interbreeds; and

WHEREAS, in 1993, the U.S. Fish and Wildlife Service revised the Grizzly Bear Recovery Plan, establishing six grizzly bear recovery zones, including the Greater Yellowstone Grizzly Bear Recovery Zone, the Northern Continental Divide Grizzly Bear Recovery Zone, the Cabinet-Yaak Grizzly Bear Recovery Zone, the Selkirk Grizzly Bear Recovery Zone, the Bitterroot (Mountains of Idaho and Montana) Recovery Zone, and the North Cascades (Mountains of Washington) Recovery Zone; and

WHEREAS, in 1996, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service developed a policy to clarify the meaning of "distinct population segment", and the clarification required a distinct population segment to exhibit "discreteness" relative to the remainder of the species and "significance" to the species to which it belongs; and

WHEREAS, Montana has established a strong, effective track record in managing grizzly bears and developed an approved management plan for the Yellowstone distinct population segment that provides for the continued presence and genetic future of grizzly bears on the landscape; and

WHEREAS, delisting efforts proposed by the U.S. Fish and Wildlife Service for the Greater Yellowstone Grizzly Bear Recovery Zone have been ongoing for 9 years; and

WHEREAS, the grizzly bear population in the Northern Continental Divide Grizzly Bear Recovery Zone has reached recovery goals and steps have begun to delist in the Northern Continental Divide Ecosystem; and

WHEREAS, congressional action is needed to support a full recovery of distinct population segments while the court system has been used to circumvent the science-based approach to delisting the grizzly bear; and

WHEREAS, the continued cycle of delisting and relisting creates a significant loss of social tolerance among Montanans who are adversely impacted by the continued expansion of grizzly bears; and

WHEREAS, the state of Montana has been at the vanguard of wildlife conservation since the 19th century, providing the template for what is known as the North American model of fish and wildlife conservation.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature support the delisting of Montana's grizzly bear populations in the Greater Yellowstone Grizzly Bear Recovery Zone and the Northern Continental Divide Grizzly Bear Recovery Zone from the Endangered Species Act, due to U.S. Fish and Wildlife Service determinations and adopted management plans.

BE IT FURTHER RESOLVED, that the Montana Legislature call upon the U.S. Fish and Wildlife Service to revise the 1993 Grizzly Bear Recovery Plan and reevaluate the Grizzly Bear Recovery Zone efficacy in other recovery zones including the Cabinet-Yaak Grizzly Bear Recovery Zone due to public safety and economic challenges.

BE IT FURTHER RESOLVED, that the Montana Legislature supports the efforts of the Department of Fish, Wildlife, and Parks to intervene on the side of the U.S. Fish and Wildlife Service to restore management authority of the Yellowstone distinct population segment to Montana.

BE IT FURTHER RESOLVED, that the U.S. Fish and Wildlife Service develop a new management plan pursuant to section 4(d) of the Endangered Species Act that would aim to resolve conflicts between bears and humans within the Northern Continental Divide Recovery Zone and other grizzly bear recovery zones.

BE IT FURTHER RESOLVED, that the Montana Legislature call upon Montana's Congressional Delegation to sufficiently fund the U.S. Fish and Wildlife Service so the agency is able to adequately manage grizzly bears until delisting.

BE IT FURTHER RESOLVED, that the Montana Legislature encourage the U.S. Fish and Wildlife Service to revisit recovery plans for the Cabinet-Yaak and Bitterroot distinct population segments to include the latest science related to genetic connectivity and population targets.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to each member of the Montana Congressional Delegation, the Secretary of the U.S. Department of the Interior, the Governor of the State of Montana, the Department of Fish, Wildlife, and Parks, and the Secretaries of State for the States of Washington, Wyoming, and Idaho.

Adopted April 8, 2019

SENATE JOINT RESOLUTION NO. 9

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REAFFIRMING MONTANA'S COMMITMENT TO ITS RELATIONSHIP WITH TAIWAN; WELCOMING THE RESUMPTION OF FREE AND FAIR TRADE TALKS; AND SUPPORTING TAIWAN'S PARTICIPATION IN APPROPRIATE INTERNATIONAL ORGANIZATIONS.

WHEREAS, Taiwan in the 2017-2018 marketing period was the third-largest export market for Montana wheat, with an estimated \$97 million in sales, and the seventh-largest export market for overall U.S. agricultural products, valued at \$3.8 billion in fiscal year 2018, according to the U.S. International Trade Commission and the U.S. Foreign Agricultural Service; and

WHEREAS, Taiwan's Ministry of Finance shows that the United States accounted for 11.6% of Taiwan's total global exports and imports in 2017; and

WHEREAS, the U.S. Department of Commerce reports Taiwanese entities invested nearly \$11.3 billion in 2017 in the United States, of which \$115 million went to research and development projects and \$967 million helped to expand U.S. exports, supporting more than 14,000 American jobs; and

WHEREAS, U.S. entities invested \$17 billion in Taiwan that same year when Taiwan was the 11th largest trading partner of U.S. goods, with bilateral merchandise trade valued between \$68.2 billion and \$86.2 billion, depending on the source and how global trade flows are counted; and

WHEREAS, Montana's share of that trade in 2017 amounted to outbound sales to Taiwan of \$49 million in commodity goods such as semiconductor machinery, inorganic chemicals, and mineral fuels, with commodity purchases from Taiwan of \$17.7 million in 2017, primarily electrical machinery, screws and bolts, and machinery for repair and reexport; and

WHEREAS, the U.S. Department of Agriculture has scheduled its first-ever trade mission to Taipei for March 11-14, 2019, in a year that marks the 40th anniversary of the U.S. Congress and Taiwan signing the Taiwan Relations Act; and

WHEREAS, a 5-week course of study for educators is planned for Taiwanese participants in early June 2019 at the University of Montana-Missoula and at universities in Massachusetts and California; and

WHEREAS, past exchanges between Taiwan and Montana have included regular visits to Montana by the Taiwan Consul General based in Seattle, several legislative delegations from Montana to Taiwan, a 2017 trip to Taiwan in which Montana's U.S. Sen. Steve Daines met then-Taiwanese President Tsai Ing-wen, biennial agricultural goodwill delegations of the Taiwan Flour Millers, and a 2015 delegation of business and educational leaders led by Governor Steve Bullock in a year that marked the signing of a joint Memorandum of Understanding encouraging exchanges of trade, market, and economic information; and

WHEREAS, Taiwan and Montana have marked a close relationship through a sister state agreement begun in 1985 and have found through tourism and strong bilateral trade that they share values of freedom, democracy, human rights, and the rule of law; and

WHEREAS, Montana welcomes all opportunities for an even closer economic and cultural relationship with Taiwan and supports increased trade and investment through bilateral free and fair trade agreements, support of the United States-Taiwan Global Cooperation and Training Framework, and capacity-building programs for regional experts in the areas of public health, empowerment of women, energy efficiency, and e-commerce.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That Montana reaffirms its commitment to a strong and deepening relationship with the people of Taiwan, in particular in this year of the 40th anniversary of the Taiwan Relations Act.

(2) That Montana welcomes periodic trade talks under the United States-Taiwan Trade and Investment Framework Agreement or related agreements in the interest of free and fair trade.

(3) That in recognition of Taiwan's contributions to a broad range of global issues, including humanitarian assistance, disaster relief, safeguarding of cyber security, antiterrorism initiatives, and fights against transnational crime, Montana supports Taiwan's meaningful participation in international organizations that impact the trade, health, safety, and well-being of the people

in Taiwan, including in the World Health Organization, the International Civil Aviation Organization, the United Nations Framework Convention on Climate Change, and the International Criminal Police Organization.

(4) That the Secretary of State send copies of this resolution to all three members of Montana's Congressional Delegation, Governor Bullock, Director General Kuo-shu Fan and Vice Consul KuanTing Chen of the Taipei Economic and Cultural Office in Seattle, President Tsai Ing-wen, and Minister of Foreign Affairs Jaushieh Joseph Wu.

Adopted April 13, 2019

SENATE JOINT RESOLUTION NO. 10

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA EXPRESSING SUPPORT FOR THE DESIGNATION OF THE FOURTH SATURDAY IN JULY AS THE "NATIONAL DAY OF THE COWBOY".

WHEREAS, Montana's pioneering men and women, known as cowboys, helped establish America's frontiers; and

WHEREAS, the cowboy archetype transcends gender, generations, ethnicity, geographic boundaries, and political affiliations; and

WHEREAS, the cowboy embodies honesty, integrity, courage, compassion, and determination; and

WHEREAS, the cowboy spirit exemplifies patriotism and strength of character; and

WHEREAS, the cowboy is an excellent steward of the land and its creatures; and

WHEREAS, the core values expressed within the Cowboy Code of Conduct continue to inspire the pursuit of the highest caliber of personal integrity; and

WHEREAS, cowboy and ranching traditions have been part of the American landscape and culture, and today's cowboys and cowgirls continue to preserve and perpetuate this unique element of America's heritage; and

WHEREAS, annual attendance at rodeos exceeds 30 million fans worldwide; and

WHEREAS, membership and participation in the National Day of the Cowboy Organization and other organizations that encompass the livelihood of the cowboy continue to expand both nationally and internationally; and

WHEREAS, the cowboy and his horse are a central figure in literature, art, poetry, photography, and music; and

WHEREAS, the cowboy is a true American icon occupying a central place in the public's imagination.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the fourth Saturday in July be designated the "National Day of the Cowboy" in Montana and that the people of Montana are encouraged to observe the day with appropriate ceremonies and activities.

Adopted April 25, 2019

SENATE JOINT RESOLUTION NO. 12

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA SUPPORTING THE PAYMENT OF COMPENSATION TO MONTANA FOR LOSSES

INCURRED AND BENEFITS REALIZED DOWNSTREAM DUE TO THE CONSTRUCTION OF LIBBY DAM AND OPPOSING THE RIGHT TO DIVERT 1,500,000 ACRE-FEET OF WATER FROM THE KOOTENAI RIVER TO THE COLUMBIA RIVER AT CANAL FLATS, BRITISH COLUMBIA.

WHEREAS, Libby Dam, located in Lincoln County, Montana, is the fourth dam constructed under the Columbia River Treaty, which the Canadian government and the United States government entered into in 1964, and is located on the Kootenai River, which is the third largest tributary to the Columbia River and contributes almost 20% of the total water in the lower Columbia River; and

WHEREAS, Libby Dam was dedicated on August 24, 1975, and spans the Kootenai River 17 miles upstream from the town of Libby, Montana; and

WHEREAS, Lake Koocanusa, the reservoir behind Libby Dam, extends 90 miles north of the dam, with 48 miles of Lake Koocanusa located in Lincoln County and the remainder in British Columbia, Canada; and

WHEREAS, Libby Dam, in Montana's northwest corner, and three dams in Canada were constructed to protect downstream areas from flooding, and Libby Dam holds back an average of 5,800,000 acre-feet of water; and

WHEREAS, economic benefits have been derived from the storage of these floodwaters and the coordinated, timely release of those waters for generation of electricity, irrigation, navigation, and recreation; and

WHEREAS, the construction of Libby Dam placed many thousands of acres of land in Lincoln County under water, leading to decreased real property tax revenues for the county and a loss of timber sales and wildlife and fish habitat, among other losses; and

WHEREAS, storage of water behind Libby Dam provides flood protection to British Columbia and provides the opportunity for electricity to be generated throughout the year at seven hydropower generating facilities between Nelson and Castlegar, B.C., as well as at numerous other dams further down the Columbia River in Washington and Oregon; and

WHEREAS, the Canadian government was compensated for construction of the dams and storage of floodwaters through a sharing of dollars on electricity from additional power generated at downstream dams and hydropower generating facilities, leading to the formation of the Columbia Basin Trust; and

WHEREAS, citizens of Lincoln County and Montana did not participate in the negotiations for the terms of the Columbia River Treaty, and no compensation has been received by Lincoln County or Montana except for fish and game mitigation; and

WHEREAS, the renegotiation or modernization of the treaty is currently in process, and there is a possibility that compensation could be provided to Lincoln County and Montana as a result of federal legislation, litigation, determination of regulations, and the renegotiation of the treaty; and

WHEREAS, in 2017, Libby Dam produced 2.557 million megawatts at a value of \$54 per megawatt for a total gross value of \$138 million at Libby Dam, although there is a production cost of \$4.16 per megawatt, leaving a net value of almost \$127 million; and

WHEREAS, British Columbia and Canada were granted the right to divert 1,500,000 acre-feet of water from the Kootenai River to the Columbia River at Canal Flats, B.C., before the Kootenai River flows into Montana; and

WHEREAS, this reduction of 1,500,000 acre-feet would amount to 26% of the Kootenai River flow into Montana and through Libby Dam; and

WHEREAS, such a diversion would create serious and devastating impacts to the ecology of Lake Kootcanusa and the Kootenai River Basin and to the life within and surrounding ecosystem, as well as a major loss in revenue to Bonneville Power Administration.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the state of Montana seeks compensation for the decreased real property tax revenues, the loss of timber, minerals, and real estate development, and other losses due to the construction of Libby Dam for all the same reasons that the province of British Columbia, Canada is compensated.

BE IT FURTHER RESOLVED, that the 66th Montana Legislature, representing all citizens of Montana, requests that the right to divert water from the Kootenai River to the Columbia River at Canal Flats be removed in the modernization of the Columbia River Treaty language.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to President Donald J. Trump, the Montana Congressional Delegation, the United States Secretaries of the Interior and Energy, the United States Army Corps of Engineers, Chief Negotiator Jill Smail at the United States Department of State, Kieran Connolly at the Bonneville Power Administration, and Jennifer Anders and Tim Baker at the Northwest Power and Conservation Council.

Adopted March 14, 2019

SENATE JOINT RESOLUTION NO. 13

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING RATIFICATION OF THE UNITED STATES-MEXICO-CANADA AGREEMENT ON TRADE.

WHEREAS, the United States and Canada have one of the largest trading relationships in the world, and Canada is the United States' largest export market, valued at \$320 billion (\$411 billion Canadian) in goods and services in 2017 and the United States is Canada's largest export market, valued at \$308 billion (\$396 billion Canadian) in 2017 goods and services; and

WHEREAS, this trade supports 9 million jobs in the United States and 2.1 million jobs in Canada; and

WHEREAS, in the more than 20 years since the United States, Canada, and Mexico entered into the North American Free Trade Agreement (NAFTA), trade among these countries tripled from \$340 billion in 1993 to \$1.2 trillion in 2016; and

WHEREAS, North American integration of trade under NAFTA has helped to make the region more competitive in the world economy by providing highly integrated and valuable supply chains, as well as common rules and harmonized regulations that increase the speed and global competitiveness of one another's businesses, and by driving investment and imbedding value in each others' economic success, including by providing jobs in North American communities; and

WHEREAS, Canada and Mexico are the first-ranked and third-ranked markets, respectively, for agriculture exports from the United States at an estimated \$20.6 billion sent to Canada and \$18.6 billion sent to Mexico, up from \$8.7 billion in 1992, the year that NAFTA was signed; and

WHEREAS, of particular interest to Montana because Canada is its largest trade partner, Canada has agreed to grade imports of wheat from the United

States in a manner no less favorable than that accorded to wheat in its own country and not to require a country of origin statement on its quality grade or inspection certificate; and

WHEREAS, in signing the United States-Mexico-Canada Agreement, the three countries have agreed to make targeted improvements to NAFTA and build on the successful partnership and a shared competitiveness in the global marketplace in which free, fair, open, and mutually beneficial trade helps to strengthen the economies of all countries.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislature supports the ratification of the United States-Mexico-Canada Agreement on trade by all countries as soon as possible

BE IT FURTHER RESOLVED, that the Montana Secretary of State send copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the Majority Leader of the United States Senate, the Consulate of Canada in Colorado, the Consulate of Mexico in Colorado, each member of the United States Senate Finance Committee, the United States House of Representatives Ways and Means Committee, the United States Senate Advisory Group on Negotiations, and the United States House of Representatives Advisory Group on Negotiations, the United States Trade Representative, the United States Secretary of Commerce, the United States Secretary of State, the United States Secretary of Labor, the Director of the Office of Management and Budget, and the Intellectual Property Enforcement Coordinator.

Adopted April 12, 2019

SENATE JOINT RESOLUTION NO. 16

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING CONGRESS TO RECOGNIZE THE IMPORTANCE AND NEED FOR COUNTRY-OF-ORIGIN LABELING ON BEEF AND PORK PRODUCTS.

WHEREAS, in 2002, Congress reauthorized the Farm Bill, which included mandatory country-of-origin labeling for beef, lamb, pork, farm-raised and wild fish, peanuts, and other perishable commodities; and

WHEREAS, in 2005, the Montana Legislature passed the Country of Origin Placarding Act until “funding and full implementation of federal mandatory country of origin labeling”; and

WHEREAS, in 2009, Montana’s county-of-origin labeling (COOL) laws were voided, as the federal act was implemented; and

WHEREAS, in 2015, federal COOL rules ceased being enforced for beef and pork products only due mainly to a World Trade Organization ruling; and

WHEREAS, consumers want to know the origin of their food; and

WHEREAS, American and Montana farmers and ranchers want consumers to know the origin of their food; and

WHEREAS, Congress should pass laws and the U.S. Department of Agriculture should administer rules and regulations for COOL certification for beef and pork products that do not impose undue compliance costs, liability, recordkeeping, or verification requirements on farmers and ranchers.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Senate and the House of Representatives of the 66th Montana Legislature urges Congress to pass a federal COOL law for beef and pork products that meets World Trade Organization requirements.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the individual members of the United States House of Representatives and the United States Senate.

Adopted April 8, 2019

SENATE JOINT RESOLUTION NO. 18

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF OCCUPATIONAL LICENSING BARRIERS FACED BY INDIVIDUALS WITH CRIMINAL RECORDS.

WHEREAS, according to the National Conference of State Legislatures, one in three American adults have a criminal record; and

WHEREAS, finding and keeping employment after release from prison can be difficult for many reasons, including the lack of relevant skills, stigmas surrounding hiring an individual with a criminal record, and the individual's criminal history; and

WHEREAS, requirements placed on applicants for professional licensure can create additional barriers to employment to those already faced by individuals returning from prison or who have a criminal record; and

WHEREAS, Article II, section 28, of Montana's Constitution declares that the laws for punishment of crimes are to be "founded on the principles of prevention, reformation, public safety, and restitution for victims"; and

WHEREAS, all of those principles are furthered when an individual punished for a crime who has served a criminal sentence can find appropriate employment; and

WHEREAS, licensing barriers for individuals with a criminal record can bar otherwise qualified individuals from higher-paying employment and reduce the number of employees available for businesses to hire; and

WHEREAS, while some barriers to employment for an individual with a criminal record could be eliminated or lowered, others are necessary to preserve public safety and avoid creating additional crime victims; and

WHEREAS, a legislative interim committee is well-positioned to determine the balance between the importance of ensuring individuals with a criminal conviction can find and keep jobs and reducing recidivism with the need to preserve the public safety, health, and well-being of all Montanans through occupational licensing practices.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to examine state laws, administrative rules, and licensing board practices that might bar individuals with a criminal history from obtaining a professional license.

BE IT FURTHER RESOLVED, that the study analyze:

(1) the statutory and constitutional provisions related to restoration of rights after a criminal conviction, as well as recent legislative efforts to revise laws related to criminal convictions and employment;

(2) current practices of licensing boards when the boards consider a license application from an individual with a criminal history;

(3) any data related to the current numbers of individuals with a criminal history who have been granted a professional license in the state of Montana compared to those who have applied; and

(4) the actions other states have taken to revise professional licensing requirements to account for individuals with a criminal conviction.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 23, 2019

SENATE JOINT RESOLUTION NO. 19

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF THE MONTANA SEXUAL AND VIOLENT OFFENDER REGISTRY.

WHEREAS, Montana established a registry for sexual offenders in 1989 and has regularly revised and expanded the authorizing statutes in the subsequent 3 decades in response to federal enactments as well as state legislative priorities; and

WHEREAS, the registry now includes information on sexual and violent offenders and provides the public access to the data on an internet website maintained by the Department of Justice; and

WHEREAS, Montana is currently out of compliance with the federal Sex Offender Registration and Notification Act (SORNA), in part because the state classifies its offenders by risk of reoffense rather than by the offense for which the offender was convicted as is required by federal law; and

WHEREAS, not all offenders on the registry have been assigned risk tier levels as required by state law, though the state has made progress in reducing those number of offenders without a designated tier level; and

WHEREAS, noncompliance with SORNA meant Montana lost \$59,000 in 2017 federal JAG Byrne grant funds and \$60,000 in 2018 funds as a penalty; and

WHEREAS, while the Law and Justice Interim Committee has discussed the state sex offender and violent offender registry during at least two interims and the Legislative Audit Division performed an information systems audit of the registry in 2011, the registry structure, purpose, and effectiveness have not undergone a thorough legislative review for years; and

WHEREAS, the Legislature must strike the delicate balance between preserving public safety and ensuring state policies for sex offender management provide an effective and efficient use of state resources.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study the Montana Sexual and Violent Offender Registry program.

BE IT FURTHER RESOLVED, that the study review:

(1) the statutes and case law governing sentencing, registration, and monitoring of sexual offenders;

(2) information made available to the public and law enforcement regarding sexual offenders;

(3) the effectiveness of a tiered classification system based on the risk of reoffense compared to the effectiveness of an offense-based classification system;

(4) methods to reduce and eliminate recidivism by individuals convicted of a sexual offense;

(5) methods and practice for removal from the sexual and violent offender registry; and

(6) options for postsentence appeals concerning the registry status of a sexual offender.

BE IT FURTHER RESOLVED, that the study include:

(1) a review of the risk assessment, treatment, and management of sexual offenders in prison and community settings; and

(2) victim and survivor needs and services, as well as community education methods.

BE IT FURTHER RESOLVED, that the study incorporate information and comment from appropriate stakeholders, including the Department of Justice, the Department of Corrections, local law enforcement, victims and survivors of sexual offenses, sex offender treatment providers, civil rights advocates, county attorneys, and advocates for offenders and their families.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 23, 2019

SENATE JOINT RESOLUTION NO. 20

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF CERTAIN WILDERNESS STUDY AREAS IN MONTANA TO CONVENE STAKEHOLDERS, DISCUSS OPTIONS FOR FUTURE MANAGEMENT AND PLANNING, AND PROVIDE RECOMMENDATIONS TO CONGRESS.

WHEREAS, the 95th Congress passed the Montana Wilderness Study Act of 1977; and

WHEREAS, the Montana Wilderness Study Act required the Secretary of Agriculture to review certain lands within 5 years to determine suitability for preservation as wilderness and report the findings to the President; and

WHEREAS, almost 663,000 acres of land in Montana are designated under the Montana Wilderness Study Act, including the:

(1) West Pioneer Wilderness Study Area comprising approximately 151,000 acres;

(2) Blue Joint Wilderness Study Area comprising approximately 61,000 acres;

(3) Sapphire Wilderness Study Area comprising approximately 94,000 acres;

(4) Ten Lakes Wilderness Study Area comprising approximately 34,000 acres;

(5) Middle Fork Judith Wilderness Study Area comprising approximately 81,000 acres;

(6) Big Snowies Wilderness Study Area comprising approximately 91,000 acres; and

(7) Hyalite-Porcupine-Buffalo Horn Wilderness Study Area comprising approximately 151,000 acres; and

WHEREAS, the 5-year period for review mandated by the Montana Wilderness Study Act expired in 1982; and

WHEREAS, no legislation has yet been passed by Congress and signed by a president regarding these wilderness study areas despite past attempts to address the issue; and

WHEREAS, the long-term sustainability of public lands depends on good stewardship and professional scientific site-specific management of forest resources, including timber harvest, grazing management, stewardship contracts, and conservation designations and management; and

WHEREAS, 40 years of legal uncertainty have resulted in untenable conflicts between various user groups, a lack of forest management, decreasing livestock use, reduced motorized opportunities, and decreased funding for noxious weed management; and

WHEREAS, Montana's historic heritage, customs, and culture are linked to the proper stewardship and use of the state's natural resources; and

WHEREAS, these lands are de facto wilderness in lieu of congressional action, a situation that has resulted in a waste of forest assets, no management of public forests, and a harmful reduction in forest road construction and multiple-use access improvements; and

WHEREAS, the failure by Congress to release the lands locked up by the Montana Wilderness Study Act of 1977 severely harms agriculture, timber harvesting, and multiple-use interests, as well as Montana communities and Montana families economically supported by those activities; and

WHEREAS, it is the consensus of the Montana Legislature that more than sufficient time has passed for the study of these lands as to their suitability for preservation as wilderness to be completed under the Montana Wilderness Study Act; and

WHEREAS, national forest lands released from wilderness study would still be subject to the National Forest Management Act, which requires extensive public involvement as the agency develops and updates plans for the management and use of resources in each forest; and

WHEREAS, Montanans have a long history of working together to find common ground on contentious issues related to natural resource management and planning; and

WHEREAS, Montanans have expressed a deep desire to develop and enact sensible legislation for Montana's public lands and wilderness study areas that meet a variety of diverse interests and produce mutual benefits.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee or statutory committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to convene stakeholders with an interest in wilderness study areas to study the history and policy issues related to wilderness study areas.

BE IT FURTHER RESOLVED, that the committee provide public forums for stakeholders to formulate options for Congress to address the disposition of these lands.

BE IT FURTHER RESOLVED, that the committee learn about different stakeholder working groups and agency planning processes addressing this issue to better inform their decisions.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 25, 2019

SENATE JOINT RESOLUTION NO. 24

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF THE REVENUES AND DISTRIBUTION OF THE LODGING FACILITY USE TAX; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 67TH LEGISLATURE.

WHEREAS, the lodging facility use tax is one of Montana's few sales taxes at a rate of 4% of the accommodation charge, requested by the lodging industry in 1987 as a way of promoting tourism; and

WHEREAS, collection of the lodging facility use tax involves a public-private partnership in which the lodging facilities collect and forward taxes to the state for the purposes of marketing tourism; and

WHEREAS, in 2003 the Legislature enacted an additional 3% lodging tax, along with a 4% rental car sales tax, which both mainly go to the general fund, with a small percentage allowed to be paid back to vendors for their collection efforts; and

WHEREAS, 64.4% of the 4% lodging facility use tax, after deductions have been made as provided in law, is statutorily appropriated to the Department of Commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials while the remainder is parceled out to various entities including regional nonprofit tourism corporations and local nonprofit convention and visitors bureaus; and

WHEREAS, the directive to the Department of Commerce to promote tourism and the state as a location for the production of motion pictures and television commercials is broad, with the money statutorily appropriated, which contrasts with many state-funded programs that have specific directives and closer financial oversight; and

WHEREAS, transparency regarding the expenditure of a state tax suggests that periodic legislative review is important to help determine whether the public-private partnership continues to benefit the state from the perspectives of the hospitality and tourism industry, their customers, and the state as a whole.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to examine the revenues received in the past 5 years from the lodging facility use tax and the uses on which the Department of Commerce has expended those revenues.

BE IT FURTHER RESOLVED, that the interim committee seek to:

(1) obtain and review recommendations from the Tourism Advisory Council and local heritage preservation and cultural tourism commissions to see how expenditures align with recommendations; and

(2) involve these industry-related associations in determining recommendations for the study.

BE IT FURTHER RESOLVED, that the interim committee work with stakeholders in the tourism industry to determine if changes are necessary for distribution of the 22.5% of funding that goes to regional nonprofit tourism corporations or to nonprofit convention and visitors bureaus.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 25, 2019

SENATE JOINT RESOLUTION NO. 28

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF TRAFFIC SAFETY SYSTEMS AND POLICY; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 67TH LEGISLATURE.

WHEREAS, a 2017 study conducted by the National Transportation Safety Board cited speeding as a deadly national problem with an estimated 10,000 fatalities occurring on United States roadways each year; and

WHEREAS, in 2014 the Montana Department of Transportation adopted Vision Zero policies that utilize interdisciplinary, data-driven approaches in order to address and combat roadway fatalities; and

WHEREAS, statewide crash data from the Montana Department of Transportation reports that in 2017, 3,571 crashes occurred on the state's roadways, down from the 3,739 crashes that occurred in 2014 when the department adopted Vision Zero policies; and

WHEREAS, policies adopted in 2014 have proven successful, and thus instituting further related policies utilizing diverse stakeholders has the potential to keep drivers, passengers, bike riders, and pedestrians safe on Montana's roadways.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to study traffic policies that utilize a more dynamic system to create safer roadways.

BE IT FURTHER RESOLVED, that the study:

(1) gather and analyze data related to the current highway safety plan adopted by the Montana Department of Transportation, including infrastructure and policy components;

(2) gather and analyze data to further understand traffic safety issues in the state and determine areas needing improvement;

(3) gather and analyze data regarding the availability, use, and safety of adaptive driving equipment and adaptive technologies used to assist people with disabilities with driving, including the legal and regulatory frameworks that have been adopted by other states;

(4) assess current methods used to engage citizens in areas with high instances of traffic issues and seek feedback from citizens on how to best rectify safety issues;

(5) determine if current policies meet the needs of citizens and traffic enforcement and whether further policies need to be adopted in order to promote and secure road safety; and

(6) seek input from various stakeholders, including city and county government entities and applicable state agencies.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 25, 2019

SENATE JOINT RESOLUTION NO. 30

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF ISSUES RELATED TO THE DISSEMINATION OF FISH AND WILDLIFE LOCATION DATA; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 67TH LEGISLATURE.

WHEREAS, debates during the 66th Legislature have raised many issues concerning the dissemination of location data for fish and wildlife; and

WHEREAS, there is a continuing need to research and debate how or whether the state should protect fish and wildlife location data, including den and nest sites, spawning locations, congregation areas, courtship display grounds, and harvest locations; and

WHEREAS, it is the role of the Legislature to guide the Fish and Wildlife Commission and the Department of Fish, Wildlife, and Parks in the areas of protection, preservation, management, and propagation of fish and wildlife in Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee or statutory committee, pursuant to 5-5-217, MCA, to:

(1) examine existing state laws related to dissemination of fish and wildlife data, the history of those laws, and rules implementing those laws;

(2) review how other states manage fish and wildlife data;

(3) solicit and consider comments, concerns, and suggestions from all interested stakeholder groups and the public;

(4) identify and analyze relevant policy and logistical issues and options; and

(5) if appropriate, develop a committee bill to address the committee's study findings and recommendations.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

Adopted April 25, 2019

SENATE JOINT RESOLUTION NO. 32

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA HONORING AND REMEMBERING MONTANA'S FALLEN HEROES WHO VALIANTLY GAVE THEIR LIVES IN MILITARY SERVICE.

WHEREAS, whenever our freedom and security has been threatened, valiant members of the United States Armed Forces have bravely defended our nation and the welfare of other freedom-loving people throughout the world; and

WHEREAS, many Montanans who answered the call to serve gave their lives in this service, making this ultimate sacrifice so future generations could prosper in freedom and safety; and

WHEREAS, pursuant to Title 10, chapter 2, part 8, of the Montana Code Annotated, the heroes named in this resolution are those Montanans who were killed in action or classified as missing in action on or after September 8, 1939, while engaged in action against an enemy of the United States, serving with friendly forces in an armed conflict, or engaged in a military operation involving a conflict with an opposing foreign force; and

WHEREAS, Montana's Honor and Remember Medallion is a symbol of our undying gratitude for each of these valiant Montanans and our solemn pledge to their family members that we will never forget these heroes and the sacrifices they made for us.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the 66th Legislature of the State of Montana, in the regular session of 2019, awards the Montana Honor and Remember Medallion to:

United States Marine Corps Second Lieutenant Jack H. Anderson, Silver Bow County, Montana;

United States Army Sergeant Mark E. Arndt, Great Falls, Montana;

United States Marine Corps Lance Corporal Andrew Bedard, Missoula, Montana;

United States Army Air Force First Lieutenant William D. Bernier, Columbia Falls, Montana;

United States Army Specialist Robert E. Blair, Belfry, Montana;

United States Army Private First Class John R. Brown, Missoula, Montana;

United States Army Corporal Antonio C. Burnside, Great Falls, Montana;

United States Army Corporal Roger M. Courville, Arlee, Montana;

United States Navy Yeoman Third Class John R. Crowley, Anaconda, Montana;

United States Marine Corps Lance Corporal Michael J. Derrig, Billings, Montana;

United States Army Sergeant Scott D. Dykeman, Troy, Montana;

United States Army Private First Class William J. Fullerton, Lewistown, Montana;

United States Army Staff Sergeant Berman J. Ganoe, Billings, Montana;

United States Army Staff Sergeant Yance T. Gray, Ismay, Montana;

United States Army Sergeant Thomas Grose, Butte, Montana;

United States Army Private Glenn W. Halverson, Lewistown, Montana;

United States Army Specialist Four Gary R. Hinthner, Lewistown, Montana;

United States Army First Lieutenant Joshua Hyland, Missoula, Montana;

United States Army Private First Class Tony Indendi, Livingston, Montana;

United States Army Specialist Second Class William M. Jodrey, Chester, Montana;

United States Army Sergeant Richard J. Kilwine, Fromberg, Montana;

United States Navy Petty Officer First Class Charles V. Komppa, Absarokee, Montana;

United States Marine Corps Lance Corporal Richard R. Kucera, Roundup, Montana;

United States Army Captain Bruce M. Langaunet, Missoula, Montana;

United States Army Sergeant Terry J. Lynch, Shepherd, Montana;

United States Army Captain Michael J. MacKinnon, Helena, Montana;

United States Army Private George Mahr, Butte, Montana;

United States Army Sergeant James A. McHale, Fairfield, Montana;

United States Marine Corps Corporal Marvin E. McLelland, Laurel, Montana;

United States Army Master Sergeant Robbie D. McNary, Lewistown, Montana;

United States Marine Corps Lance Corporal Jeremy S. Monroe, Darby, Montana;

United States Army Private Duane L. Painter, Geraldine, Montana;

United States Army Air Forces Private LaVerne E. Painter, Geraldine, Montana;

United States Marine Corps Corporal Dean P. Pratt, Stevensville, Montana;

United States Army First Lieutenant Clarence L. Sexton Jr., Great Falls, Montana;

United States Army Specialist Second Class Wayne C. Simmons, Libby, Montana;

United States Air Force Airman First Class Wyatt C. Smith, Belgrade, Montana;

United States Army Private First Class Kristofor T. Stonesifer, Missoula, Montana;

United States Air Force Staff Sergeant Marion C. Taylor, Butte, Montana;

United States Army Corporal Robert D. Tudorovich, Anaconda, Montana;

United States Army Second Lieutenant Patrick F. Van Duynhoven, Butte, Montana; and

United States Army Specialist Owen D. Witt, Sand Springs, Montana.

BE IT FURTHER RESOLVED, that a copy of this resolution be provided to the family of each recipient and that the names of these recipients be entered on the roll of Montana Honor and Remember Medallion honorees.

Adopted April 25, 2019

Senate Resolutions

SENATE RESOLUTION NO. 1

A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE SENATE RULES."

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the following Senate Rules be adopted:

RULES OF THE MONTANA SENATE

CHAPTER 1

Administration

S10-10. Officers of the Senate. The officers of the Senate include a president, a president pro tempore, a majority leader, a minority leader, and majority and minority whips.

S10-20. Term of office. The term of office for the officers and employees of the Senate established by law is until the succeeding Legislature is organized. This rule may not be construed to mean the staff will be full-time employees during an interim.

S10-30. President, President pro tempore, and other officers. (1) The Senate shall, at the beginning of each regular session, and at other times as may be necessary, elect a Senator as President and a Senator as President pro tempore.

(2) The Senate shall choose its other officers and is the judge of the elections, returns, and qualifications of the Senators.

S10-40. Voting by presiding officer. Any Senator, when acting as presiding officer of the Senate, shall vote as any other Senator.

S10-50. Presiding officer and duties. (1) The presiding officer of the Senate is the President of the Senate, who must be chosen in accordance with law.

(2) The President shall take the chair on every legislative day at the hour to which the Senate adjourned at the last sitting.

(3) The President may name a Senator to perform the duties of the President when the President pro tempore is not present in the Senate chamber. The Senator who is named is vested during that time with all the powers of the President.

(4) The President has general control over the assignment of rooms for the Senate and shall preserve order and decorum. The President may order the galleries and lobbies cleared in case of disturbance or disorderly conduct.

(5) The President shall sign all necessary certifications of the Senate, including enrolled bills and resolutions, journals, subpoenas, and payrolls. The President's signature must be attested by the Secretary of the Senate.

(6) The President shall approve the calendar for each legislative day.

(7) The President is the chief administrative officer of the Senate, with authority for the general supervision of all Senate employees. The President may seek the advice and counsel of the Legislative Administration Committee.

(8) The President of the Senate is the authorized approving authority of the Senate during the term of election to that office.

(9) The President shall refer bills to committee upon introduction or reception in the office of the Secretary of the Senate.

S10-60. Succession. (1) In case of the absence or disqualification of the President, the President pro tempore of the Senate shall perform the duties of the President until the vacancy is filled or the disability removed.

(2) Whenever the President pro tempore of the Senate is of the opposite political party from that of the President, the following procedure applies:

(a) If the President dies while in office, the members of the Senate have the right to immediately nominate and elect an acting President of the same party.

(b) If the President is absent for 2 or more legislative days or at any time after the 85th legislative day or at any time during special session of the Legislature and wants to appoint an acting President during the President's absence, the President may do so, or the members of the Senate have the right to immediately nominate and elect an acting President of the President's caucus.

(c) An acting President of the Senate has the powers of the President and supersedes the powers of the President pro tempore.

S10-70. President-elect. The President-elect nominated by the appropriate party caucus has the responsibility and authority to assume the duties of President of the Senate.

S10-80. Legislative Administration Committee duties. (1) The Legislative Administration Committee shall consider matters relating to legislative administration, staffing patterns, budgets, equipment, operations, and expenditures.

(2) The committee has authority to act in the interim to prepare for future legislative sessions.

(3) The committee shall approve contracts for purchase or lease of equipment and supplies for the Senate, subject to the approval of the President.

(4) The committee shall consider disputes or complaints involving the competency or decorum of legislative employees referred to it by the President and recommend dismissal, suspension, or retention of employees.

(5) The chair of the Legislative Administration Committee may, upon approval of the President, have purchase orders and requisitions prepared and forwarded to the accounting office in the Legislative Services Division.

S10-90. Majority Leader. The primary functions of the majority leader usually relate to floor duties. The duties of the majority leader may include but are not limited to:

(1) being the lead speaker for the majority party during floor debates;

(2) helping the President develop the calendar;

(3) assisting the President with program development, policy formation, and policy decisions;

(4) presiding over the majority caucus meetings; and

(5) other duties as assigned by the caucus.

S10-100. Majority Whip. The duties of the majority whip may include but are not limited to:

(1) assisting the majority leader;

(2) ensuring member attendance;

(3) counting votes;

(4) generally communicating the majority position; and

(5) other duties as assigned by the caucus.

S10-110. Minority Leader. The minority leader is the principal leader of the minority caucus. The duties of the minority leader may include but are not limited to:

(1) developing the minority position;

(2) negotiating with the majority party;

(3) directing minority caucus activities on the chamber floor;

- (4) leading debate for the minority; and
- (5) other duties as assigned by the caucus.

S10-120. Minority Whip. The major responsibilities for the minority whip may include but are not limited to:

- (1) assisting the minority leader on the floor;
- (2) counting votes;
- (3) ensuring attendance of minority party members; and
- (4) other duties as assigned by the caucus.

S10-130. Senate employees. (1) In addition to the employees appointed by the President, the Senate shall employ staff recommended by the leadership and the Legislative Administration Committee as necessary to perform the functions of the Senate.

(2) The Secretary of the Senate shall designate a secretary to take and prepare written minutes of committee meetings for each standing committee. A committee secretary is immediately responsible to the chair, but shall work under the overall direction of the Secretary of the Senate, subject to authority of the committee chair.

(3) The President, majority leader, and minority leader may each appoint a private secretary.

S10-140. Secretary of the Senate and duties. The Secretary of the Senate works under the direction of the President. The responsibilities of the Secretary of the Senate include:

- (1) performing the duties prescribed by law or other provisions of these rules;
- (2) serving as parliamentary advisor to the Senate;
- (3) compiling and maintaining the calendar for approval by the President;
- (4) keeping the leadership informed on the progress and workload of the Senate;
- (5) transmitting bills with appropriate messages to the House of Representatives as instructed by action of the Senate;
- (6) keeping and maintaining records of the Senate; and
- (7) supervision of the Senate employees, except as otherwise provided.

S10-150. Sergeant-at-Arms duties. Under the direction of the President, the Sergeant-at-Arms shall:

- (1) maintain order as directed by the President or chair of the Committee of the Whole;
- (2) enforce the lobbying rules of the Senate;
- (3) supervise the employees assigned to the Sergeant's office;
- (4) receive, distribute, and maintain supplies, equipment, and other inventory of the Senate, along with records of purchase and disposal in accordance with law;
- (5) perform duties as required by other rules and the Senate.

S10-160. Legislative aides. Each Senator may designate one person of legal age to serve as an aide during the session. Exceptions to this policy may be approved by the Rules Committee. The Senator shall register an aide with the Secretary of the Senate and arrange for the purchase of a name tag with the Sergeant-at-Arms.

S10-170. Senate journal. (1) The Senate shall keep and authenticate a journal of its proceedings as required by law and the rules.

(2) The Secretary of the Senate will supervise the preparation of the journal by the journal clerks trained by the Legislative Services Division under the direction of the President.

(3) In addition to the proceedings required by law to be recorded, the journal must include:

- (a) committee reports;
 - (b) every motion, the name of the Senator presenting it, and its disposition;
 - (c) the introduction of legislation in the Senate;
 - (d) consideration of legislation subsequent to introduction;
 - (e) roll call votes;
 - (f) messages from the Governor and the House of Representatives;
 - (g) every amendment, the name of the Senator presenting it, and its disposition;
 - (h) the names of Senators and their votes on any question upon a request by two Senators before a vote is taken; and
 - (i) any other records the Senate directs by rule or action.
- (4) The Secretary of the Senate shall provide information that may be necessary for the preparation of the daily journal for printing by the Legislative Services Division. Upon approval by the President, the daily journal must be reproduced and made available.
- (5) Any Senator may examine the daily journal and propose corrections. Without objection by the Senate, the President may direct the correction to be made.
- (6) The President shall authenticate the original daily journal, from time to time, and the Secretary of the Senate shall, as appropriate, deliver it to the Legislative Services Division to be prepared for publication and distribution in accordance with law.

CHAPTER 2

Decorum

S20-10. Questions of order – appeal. The President of the Senate shall decide all questions of order, subject to an appeal by any Senator seconded by two other Senators. A Senator may not speak more than once on an appeal without the consent of a majority of the Senate.

S20-20. Violation of rules – call to order – appeal. (1) If a Senator, in speaking or otherwise, violates the rules of the Senate, the President shall, or the majority leader or minority floor leader may, call the Senator to order, in which case the Senator called to order must be seated immediately.

(2) The Senator called to order may move for an appeal to the Senate, and if the motion is seconded by two Senators, the matter must be submitted to the Senate for determination by majority vote. The motion is nondebatable.

(3) If the decision of the Senate is in favor of the Senator called to order, the Senator may proceed. If the decision is against the Senator, the Senator may not proceed.

(4) If a Senator is called to order, the matter may be referred to the Rules Committee by the minority or majority leader. The Committee may recommend to the Senate that the Senator be censured or be subject to other action. Censure consists of an official public reprimand of a Senator for inappropriate behavior. The Senate shall act upon the recommendation of the Committee.

S20-30. Questions of privilege – restrictions. (1) Questions of privilege in order of precedence are those:

(a) affecting the collective rights, safety, dignity, or integrity of the proceedings of the Senate; and

(b) affecting the rights, reputation, or conduct of individual Senators in their capacity as Senators.

(2) A Senator may not address the Senate on a question of privilege between the time:

- (a) an undebatable motion is offered and the vote is taken on the motion;

(b) the previous question is ordered and the vote is taken on the proposition included under the previous question; or

(c) a motion to lay on the table is offered and the vote is taken on the motion.

S20-40. Recognition by chair. A Senator desiring to speak shall rise and address the presiding officer and, once being recognized, shall speak standing in place. The presiding officer may grant permission for a speaker to speak from elsewhere in the chamber. When two or more Senators rise at the same time, the presiding officer shall name the order of the speakers.

S20-50. Floor privileges. (1) When the Senate is in session no person is permitted in the chambers except:

(a) legislators;

(b) legislative officers and employees whose presence is necessary for the conduct of business of the session;

(c) registered representatives of the media; and

(d) former legislators (not currently registered as lobbyists).

(2) The President may make exceptions for visiting dignitaries.

(3) Beginning 1 hour before and ending one-half hour after adjournment, no person is permitted in the chambers except those authorized as exceptions under subsection (1) or (2).

S20-60. Communications to Senate. A communication to the Senate must be addressed to the President and must bear the name of the person submitting it. The President shall decide if the communication bears including in the calendar.

S20-70. Distribution of materials on floor – exception. (1) Subject to subsection (2), material may not be distributed on the Senators' desks in the chamber unless the material bears the signature of the bearer and a Senator and has been approved by the President.

(2) Subsection (1) does not apply to material written by staff at the request of a Senator and placed on the Senator's desk.

CHAPTER 3

Committees

S30-10. Committee appointments. (1) There is a Committee on Committees consisting of six members. If the Senate is evenly divided between parties, the committee shall consist of six Senators, three from the majority party and three from the minority party.

(2) The Committee on Committees shall, with the approval of the Senate, appoint the members of Senate standing committees, select committees, and joint committees. Prior to making committee assignments, the Committee on Committees shall take into consideration the recommendations of the minority leader for minority committee assignments.

(3) The minority leader shall designate the ranking minority member for each standing committee.

(4) The President of the Senate shall appoint all conference committees and special committees, with the advice of the majority leader and minority leader.

(5) The Senate may change the membership of any committee on 1 day's notice.

S30-20. Standing committees – classification. (1) The standing committees of the Senate are as follows:

(a) class one committees:

(i) Business, Labor, and Economic Affairs;

(ii) Finance and Claims;

- (iii) Judiciary; and
- (iv) Taxation;
- (b) class two committees:
 - (i) Education and Cultural Resources;
 - (ii) Local Government;
 - (iii) Natural Resources;
 - (iv) Public Health, Welfare, and Safety; and
 - (v) State Administration;
- (c) class three committees:
 - (i) Agriculture, Livestock, and Irrigation;
 - (ii) Energy and Telecommunications;
 - (iii) Fish and Game; and
 - (iv) Highways and Transportation; and
- (d) on-call committees:
 - (i) Ethics;
 - (ii) Legislative Administration; and
 - (iii) Rules.

(2) A class 1 committee is scheduled to meet Monday through Friday. A class 2 committee is scheduled to meet Monday, Wednesday, and Friday. A class 3 committee is scheduled to meet Tuesday and Thursday. Unless a class is prescribed for a committee, it meets upon the call of the chair.

(3) The Legislative Council shall review the workload of the standing committees to determine if any change is indicated in the class of a standing committee for the next legislative session. The Legislative Council's recommendations must be submitted to the leadership nominated or elected at the presession caucus.

S30-40. Ex officio members -- quorum. (1) A quorum of a committee is a majority of the members of the committee. A quorum of a committee must be present at a meeting to act officially. A quorum of a committee may transact business, and a majority of the quorum, even though it is a minority of the committee, is sufficient for committee action.

(2) The majority leader and the minority leader are ex officio nonvoting members of all committees in order to establish a quorum. As ex officio nonvoting members of a committee, the majority leader and minority leader have the privileges of a committee member pursuant to S30-70(13)(a), (13)(c), and (13)(d).

S30-50. Chair's duties. (1) The chair of a committee is the presiding officer of that committee and is responsible for:

- (a) maintaining order within the committee room and its environs;
- (b) scheduling hearings and executive action;
- (c) supervising committee work, including the appointment of subcommittees to act on a formal or informal basis; and
- (d) authenticating committee reports by signing them and submitting them promptly to the Secretary of the Senate. The chair shall sign business reports reflecting action taken in each committee meeting that enable the preparation of committee minutes. The minutes must be printed on archival paper.

(2) The Secretary of the Senate shall arrange to have the minutes copied in an electronic format. An electronic copy will be provided to the Legislative Services Division and the State Law Library of Montana. The archival paper copy must be delivered to the Montana Historical Society.

S30-60. Meetings -- notice -- purpose -- minutes. (1) All meetings of committees must be open to the public at all times, subject always to the power and authority of the chair to maintain safety, order, and decorum. The date, time, and place of committee meetings must be announced.

(2) Notice of a committee hearing must be made by posting the date, time, and subject of the hearing in a conspicuous public place not less than 3 legislative days in advance of the hearing. This 3-day notice requirement does not apply to hearings scheduled:

- (a) prior to the third legislative day;
 - (b) less than 10 legislative days before the transmittal deadline applicable to the subject of the hearing;
 - (c) to consider confirmation of a gubernatorial appointment received less than 10 legislative days before the last scheduled day of a legislative session;
- or

(d) due to appropriate circumstances.

(3) When a committee hearing is scheduled with less than 3 days' notice, the committee chair shall use all practical means to disseminate notice of the hearing to the public.

(4) Notice of conference committee hearings must be given as provided in Joint Rule 30-30.

(5) A committee or subcommittee may be assembled for:

(a) a public hearing at which testimony is to be heard and at which official action may be taken on bills, resolutions, or other matters;

(b) a formal meeting at which the committees may discuss and take official action on bills, resolutions, or other matters without testimony; or

(c) a work session at which the committee may discuss bills, resolutions, or other matters but take no formal action.

(6) All committees meet at the call of the chair or upon the request of a majority of the members of the committee.

(7) A committee may not meet during the time the Senate is in session without leave of the President. Any Senator attending a meeting while the Senate is in session must be considered excused to attend business of the Senate subject to a call of the Senate.

(8) All meetings of committees must be recorded and the minutes must be available to the public within a reasonable time after the meeting. The official record must contain at least the following information:

(a) the time and place of each meeting of the committee;

(b) committee members present, excused, or absent;

(c) the names and addresses of persons appearing before the committee, whom each represents, and whether the person is a proponent, opponent, or other witness;

(d) all motions and their disposition;

(e) the results of all votes; and

(f) all testimony and exhibits.

(9) If a bill is heard in a joint committee, it must be referred to a standing committee. The standing committee is not required to hold an additional hearing but shall take executive action and may report the bill to the Committee of the Whole.

(10) A bill or resolution may not be considered or become a law unless referred to a committee and returned from a committee.

(11) A bill may be rereferred at any time before its passage.

S30-70. Procedures – member privileges. (1) The chair shall notify the sponsor of any bill pending before the committee of the time and place it will be considered.

(2) A standing or select committee may not hear legislation unless the sponsor or one of the cosponsors is present or unless the sponsor has given written consent.

(3) (a) Subject to subsection (3)(b), the committee shall act on each bill in its possession:

(i) by reporting the bill out of the committee:

(A) with the recommendation that it be referred to another committee;

(B) favorably as to passage; or

(C) unfavorably; or

(ii) by tabling the measure in committee.

(b) At the written request of the sponsor made at least 48 hours prior to a scheduled hearing, a committee shall finally dispose of a bill without a hearing. Except as provided in S30-60(9), a bill may not be reported from a committee without a hearing.

(4) The committee may not report a bill to the Senate without recommendation.

(5) In reporting a measure out of committee, a committee shall include in its report:

(a) the measure in the form reported out;

(b) the recommendation of the committee;

(c) an identification of all proposed changes; and

(d) a fiscal note, if required.

(6) If a measure is taken from a committee and brought to the Senate floor for debate on second reading on that day without a committee recommendation, the bill does not include amendments formally adopted by the committee because committee amendments are merely recommendations to the Senate that are formally adopted when the committee report is accepted by the Senate.

(7) A second to any motion offered in a committee is not required in order for the motion to be considered by the committee.

(8) The vote of each member on all committee actions must be recorded and reported in the committee minutes. All motions may be adopted only on the affirmative vote of a majority of the members voting.

(9) A motion to take a bill from the table may be adopted by the affirmative vote of a majority of the members present at any meeting of the committee.

(10) An action formally taken by a committee may not be altered in the committee except by reconsideration and further formal action of the committee.

(11) A committee may reconsider any action as long as the matter remains in the possession of the committee. A bill is in the possession of the committee until a report on the bill is made to the Committee of the Whole. A committee member need not have voted with the prevailing side in order to move reconsideration.

(12) The chair shall decide points of order.

(13) The privileges of committee members include the following:

(a) to participate freely in committee discussions and debate;

(b) to offer motions;

(c) to assert points of order and privilege;

(d) to question witnesses upon recognition by the chair;

(e) to offer any amendment to any bill; and

(f) to vote, either by being present or by proxy, using a standard form.

(14) Any meeting of a committee held through the use of telephone or other electronic communication must be conducted in accordance with Chapter 3 of the Senate Rules.

(15) A committee may consolidate into one bill any two or more related bills referred to it whenever legislation may be simplified by the consolidation.

(16) Committee procedure must be informal, but when any questions arise on committee procedure, the rules or practices of the Senate are applicable except as stated in the Senate Rules.

S30-80. Public testimony -- decorum -- time restrictions.

(1) Testimony from proponents, opponents, and informational witnesses must be allowed on every bill or resolution before a standing or select committee. All persons, other than the sponsor, offering testimony shall register on the committee witness list.

(2) (a) Any person wishing to offer testimony to a committee hearing a bill or resolution must be given a reasonable opportunity to do so, orally or in writing, subject to time constraints. Written testimony may not be required of any witness, but all witnesses must be encouraged to submit a statement in writing for the committee's official record.

(b) A person who is an employee of the state or a political subdivision of the state that is offering testimony on behalf of the state or political subdivision shall state in person's oral or written testimony the specific entity or state officeholder that they are representing.

(3) The chair may order the committee room cleared of visitors if there is disorderly conduct. During committee meetings, visitors may not speak unless called upon by the chair. Restrictions on time available for testimony may be announced.

(4) The number of people in a committee room may not exceed the maximum posted by the State Fire Marshall. The chair shall maintain that limit.

(5) In any committee meeting, the use of cameras, television, radio, or any form of telecommunication equipment is allowed, but the chair may designate the areas of the hearing room from which the equipment must be operated. Cell phone use is at the discretion of the chair.

S30-100. Pairs prohibited -- absentee or proxy voting. Pairs in standing committee are prohibited. Standing and select committees may by a majority vote of the committee authorize Senators to vote in absentia. Authorization for absentee or proxy voting must be reflected in the committee minutes.

S30-140. Reconsideration in committee. A committee may at any time prior to submitting a report to the Secretary of the Senate reconsider its previous action on legislation.

S30-150. Committee requested legislation. (1) (a) Except as provided in subsection (1)(b), at least three-fourths of all the members of a standing committee must have voted in favor of the question to allow the committee to request the drafting and introduction of legislation.

(b) The Finance and Claims Committee may request the drafting and introduction of legislation by a majority vote of all of the members of the committee.

(2) The chair of a committee shall introduce, or shall designate a member of the committee to introduce, legislation requested by the committee. The introduced bill must be referred to the requesting committee.

S30-160. Ethics Committee. (1) The Ethics Committee shall meet only upon the call of the chair after the referral of an issue from the Rules Committee or the Legislator Conduct Panel or to consider a request for a determination pursuant to subsection (4). The Rules Committee may be convened to consider the referral of a matter to the Ethics Committee upon the request of a Senator. The Rules Committee shall prepare a written statement of the specific question or issue to be addressed by the Ethics Committee. Except for a referral from the Legislative Conduct Panel, the issues referred to the Ethics Committee must be related to the actions of a Senator during a legislative session.

(2) The matters that may be referred to the Ethics Committee are:

(a) a violation of:

(i) 2-2-103;

- (ii) 2-2-104;
- (iii) 2-2-111;
- (iv) 2-2-112; or
- (v) Joint Rule 10-85;

(b) the use or threatened use of a Senator's position for personal or personal business benefit or advantage; or

(c) any other violation of law by a Senator while acting in the capacity of Senator.

(3) If there is a recommendation from the Ethics Committee, the recommendation is made to the Senate.

(4) A Senator may seek a determination from the Ethics Committee concerning the possibility of a personal conflict of interest.

CHAPTER 4

Legislation

S40-10. Types of legislation. The only types of legislation that may be introduced in the Senate are those that have been drafted and approved by the Legislative Services Division and signed by a Senator as chief sponsor. The types of legislation allowed include:

- (1) bills of any subject, except appropriations;
- (2) joint resolutions, which may be used for any purpose specified in Joint Rule 40-60; and
- (3) simple resolutions, which may:
 - (a) adopt or amend Senate rules;
 - (b) provide for the internal affairs of the Senate;
 - (c) express confirmation of the Governor's appointments; or
 - (d) make recommendations concerning the districting and apportionment plan as provided by Article V, section 14(4), of the Montana Constitution.

S40-20. Introduction – first reading. (1) Upon receiving a bill or resolution from a Senator, the Secretary of the Senate shall assign an appropriate sequential number, which constitutes introduction of the legislation. Legislation properly introduced or received in the Senate must be announced across the rostrum and public notice provided. This announcement constitutes first reading, and no debate or motion is in order except that a Senator may question adherence to rules. Acknowledgment by the Secretary of the Senate of receipt of legislation transmitted from the House commences the time limit for consideration of the legislation. All legislation received by the Senate may be referred to a committee prior to being read across the rostrum.

(2) Bills and resolutions preintroduced as provided in Joint Rule 40-40 may be assigned to committee and printed prior to the legislative session. The Legislative Services Division is responsible for ensuring the preintroduction intent from each Senator and presenting the preintroduced legislation to the Secretary of the Senate.

(3) Upon referral to committee, the Secretary of the Senate shall publicly post a listing of the bill or resolution by a summary of its title, together with a notation of the committee to which it has been assigned.

(4) The sponsor may ask the Legislative Services Division to change or correct a short title used on the bill status system.

S40-30. Additional sponsors. (1) Additional sponsors may be added on motion of the chief sponsor at any time prior to a standing committee report on the bill or resolution. Forms for adding sponsors will be supplied on request by the Secretary of the Senate.

(2) Upon passage of the motion, the names of the additional sponsors will be printed in the journal and the form containing the signatures of the

additional sponsors will be forwarded to the Legislative Services Division with the original bill for the inclusion of the names in subsequent printings of the bill or resolution.

S40-40. Reading limitations. (1) Every bill must be read three times prior to passage, either by title or by summary of title as provided in these rules.

(2) A bill or resolution may not have more than one reading on the same day except the last legislative day.

(3) An amendment may not be offered on third reading.

S40-60. Scheduling for second reading. (1) All bills and resolutions that have been reported by a committee or withdrawn from a committee by motion, accepted by the Senate, and reproduced must be scheduled for consideration by Committee of the Whole.

(2) Until the 50th legislative day, 1 day must elapse between receiving the legislation from printing and scheduling for second reading for consideration by Committee of the Whole unless a printed version of an unamended bill is available.

(3) The majority leader shall arrange legislation on the agenda in the order in which the bills will be considered, unless otherwise ordered by the Senate or Committee of the Whole.

CHAPTER 5

Floor Action

S50-10. Attendance – mandatory voting – quorum. (1) Unless excused, Senators must be present at every sitting of the Senate and shall vote on questions put before the Senate.

(2) A majority of the Senate shall constitute a quorum to do business, but a smaller number may adjourn from day to day and compel the attendance of absent Senators, in the manner and under penalties as the Senate may prescribe (Montana Constitution, Art. V, sec. 10(2)).

S50-20. Orders of business. After prayer, roll call, and report on the journal, the order of business of the Senate is as follows:

- (1) communications and petitions;
- (2) reports of standing committees;
- (3) reports of select committees;
- (4) messages from the Governor;
- (5) messages from the House of Representatives;
- (6) first reading and commitment of bills;
- (7) second reading of bills (Committee of the Whole);
- (8) third reading of bills;
- (9) motions;
- (10) unfinished business;
- (11) special orders of the day; and
- (12) announcement of committee meetings.

To revert to or pass to a new order of business requires only a majority vote. Unless otherwise specified in the motion to recess, the Senate shall revert to Order of Business No. 1 when reconvening after a recess.

S50-30. Limitations on debate. A Senator may not speak more than twice on any one motion or question without unanimous consent of the Senate, unless the Senator has introduced or proposed the motion or question under debate, in which case the Senator may speak twice and also close the debate. However, a Senator who has spoken may not speak again on the same motion or question to the exclusion of a Senator who has not spoken.

S50-40. Procedure upon offering a motion. (1) When a motion is offered it must be restated by the presiding officer. If requested by the presiding officer

or a Senator, it must be reduced to writing, presented at the rostrum, and read aloud by the Secretary.

(2) A motion may be withdrawn by the Senator offering it at any time before it is amended or voted upon.

S50-50. Precedence of motions. (1) When a question is under debate only the following privileged and subsidiary motions may be made:

- (a) to adjourn (nondebatable S50-60);
- (b) for a call of the Senate (nondebatable S50-60);
- (c) to recess (nondebatable S50-60);
- (d) question of privilege;
- (e) to lay on the table (nondebatable S50-60);
- (f) for the previous question (nondebatable S50-60);
- (g) to postpone to a certain day;
- (h) to refer or commit;
- (i) to amend; and
- (j) to postpone indefinitely.

(2) The motions listed in subsection (1) have precedence in the order listed.

(3) A question may be indefinitely postponed by a majority roll call of all Senators present and voting. When a bill or resolution is postponed indefinitely, it is finally rejected and may not be acted upon again except upon a motion of reconsideration as provided in S50-90.

(4) A motion or proposition on a subject different from that under consideration may not be accepted unless a substitute motion is in order.

S50-60. Nondebatable motions. The following motions are not debatable:

- (1) to adjourn;
- (2) for a call of the Senate;
- (3) to recess or rise;
- (4) for parliamentary inquiry;
- (5) for suspension of the rules;
- (6) to lay on the table;
- (7) for the previous question;
- (8) to limit, extend the limits of, or to close debate;
- (9) to amend an undebatable motion;
- (10) to change a vote (S50-200);
- (11) to pass business in Committee of the Whole;
- (12) to take from the table;
- (13) a decision of the presiding officer, unless appealed or unless the presiding officer submits the question to the Senate for advice or decision; and
- (14) all incidental motions, such as motions relating to voting or other questions of a general procedural nature.

S50-70. Amending motions -- restrictions. (1) Subject to subsection (2), no more than one amendment and no more than one substitute motion may be made to a motion. This rule permits the main motion and two modifying motions.

(2) A motion for a call of the Senate, for the previous question, to table, or to take from the table may not be amended.

S50-80. Previous question. (1) Except as provided in subsection (2), the effect of calling for the previous question, if adopted, is to close debate immediately, to prevent the offering of amendments or other subsidiary motions, and to bring to vote promptly the immediately pending main question and the adhering subsidiary motions, whether on appeal or otherwise. The motion for the previous question is nondebatable as provided in S50-60(7).

(2) When the previous question is ordered on any debatable question on which there has been no debate, the question may be debated for one-half

hour, one-half of that time to be given to the proponents and one-half to the opponents. The sponsor of the main motion on which the previous question is adopted may close on the motion regardless of whether debate on the main motion has occurred.

(3) A call of the Senate is not in order after the previous question is ordered unless it appears upon an actual count by the presiding officer that a quorum is not present.

S50-90. Reconsideration – time restrictions. (1) Subject to subsection (6), any Senator may, on the day the vote was taken or on the next day the Senate is in session, move to reconsider the question. A motion to reconsider is a debatable motion, but the debate is limited to the motion. The debate on a motion to reconsider may not address the substance of the matter for which reconsideration is sought. However, an inquiry may be made concerning the purpose of the motion to reconsider.

(2) A motion to reconsider must be disposed of when made unless a proper substitute motion is made and adopted.

(3) A motion to recall a bill from the House of Representatives constitutes notice to reconsider and must be acted on as a motion to reconsider. A motion to reconsider or to recall a bill from the House of Representatives may be made only under Order of Business No. 9 and, under that order of business, takes precedence over all motions except motions to recess or adjourn.

(4) When a motion to reconsider is laid on the table, a two-thirds majority is required to take it from the table. When a motion to reconsider fails, the question is finally and conclusively settled.

(5) If a motion to reconsider third reading action is carried, there may not be further action until the succeeding legislative day.

(6) If the Senate has adjourned for more than 2 days, then a motion to reconsider action taken on the last day the Senate was in session is in order on the day the Senate reconvenes or on the following legislative day.

S50-95. Rerefferral. (1) Legislation that is in the possession of the Senate and that has been reported from a committee with a do pass or be concurred in recommendation may be rereferred to a Senate committee by a majority vote.

(2) (a) With the consent of the majority leader, the minority leader, and the bill sponsor, legislation that has passed second reading, has been rereferred to the Finance and Claims Committee pursuant to subsection (1), and is reported from committee without amendments may be placed on third reading.

(b) Prior to being placed on third reading, legislation rereferred and reported from committee under this rule must be sent to be processed and reproduced as a third reading version and specifically marked as having been passed on second reading, rereferred to the Senate Finance and Claims Committee, and reported from the committee without amendments.

S50-100. Dividing a question – segregation excluded. A Senator may request to divide a question if it includes two or more propositions so distinct in substance that if one thing is taken away a substantive question will remain. A vote is not required on a request to divide a question, but the chair may rule that a question is not divisible. The ruling of the chair may be appealed as provided in S20-10 and S20-20. For an appeal of a ruling of the presiding officer, the question for the Senate must be stated as, “Shall the ruling of the chair be upheld?”. A motion to segregate pursuant to S50-140(4) is not a request to divide a question.

S50-110. Rules for questions or bills requiring other than a majority vote. (1) Except as provided in subsection (2), if a question or bill requires more than a majority vote for final passage, a majority vote is sufficient to decide any question relating to the question or bill prior to third reading.

(2) Any vote in the Senate on a bill proposing an amendment to the Montana Constitution under circumstances in which there exists the mathematical possibility of obtaining the necessary two-thirds vote of the Legislature will cause the bill to progress as though it had received the majority vote. This rule does not prevent a committee from indefinitely postponing or tabling a bill proposing an amendment to the Montana Constitution.

(3) If a bill has been amended in the House of Representatives and the amendments are accepted by the Senate, the bill must again be placed on third reading in the Senate to determine if the required number of votes has been cast.

S50-120. Committee reports to Senate – reconsideration. (1) Reports of standing committees must be read on Order of Business No. 2, and, if there is no objection to form, are considered adopted. Subject to subsection (4), debate may not be had on any report.

(2) On an adverse committee report, the sponsor may respond to the chair of the committee making the report.

(3) Any Senator seeking a reconsideration of the Senate's action on the adoption of a committee report shall do so on Order of Business No. 9 by motion to reconsider as provided in S50-90. Any Senator may make the reconsideration motion and need not have voted on the prevailing side. This rule applies notwithstanding any joint rule to the contrary. Subject to S50-90(6), the reconsideration motion must be made within 1 legislative day of the adoption of the committee report and is not in order if the bill has been considered in Committee of the Whole.

(4) (a) Subject to subsection (4)(b), the Rules Committee and conference committees may report at any time, except during a call of the Senate, when a vote is being taken, or during Committee of the Whole.

(b) The Rules Committee may report during Committee of the Whole on matters referred to the Committee by the Committee of the Whole.

S50-130. Conference committee – reports. (1) When a conference committee report is filed with the Secretary of the Senate, the report must be read under Order of Business No. 3, select committees, and placed on the calendar the succeeding legislative day for consideration on second reading. If recommended favorably by the Committee of the Whole, it may be considered on third reading the same legislative day.

(2) If both the Senate and the House of Representatives adopt the same conference committee report on legislation requiring more than a majority vote for final passage, the Senate, following approval of the conference committee report on third reading, shall place the final form of the legislation on third reading to determine if the required vote is obtained.

(3) If the Senate rejects a conference committee report, the committee continues to exist unless dissolved by the President or by motion. The committee may file a subsequent report.

(4) A Senate conference committee may confer regarding matters assigned to it with any House conference committee with like jurisdiction and submit recommendations for consideration of the Senate.

S50-140. Second reading – Committee of the Whole report – segregation – rejection. (1) The Senate may resolve itself into a Committee of the Whole for consideration of business on second reading, by approval of a motion for that purpose.

(2) After a Committee of the Whole has been formed, the President shall appoint a chair to preside.

(3) All legislation considered in the Committee of the Whole must be read by a summary of its title. The sponsor shall make an opening statement, proposed

amendments must be considered, and then the bill must be considered in its entirety.

(4) Prior to adoption of the Committee of the Whole report, a Senator may move to segregate legislation. If the motion prevails, the legislation remains on second reading.

(5) When a Committee of the Whole report on legislation is rejected, the legislation remains on second reading.

S50-150. Committee of the Whole amendments. (1) All Committee of the Whole amendments must be prepared by the staff of the Legislative Services Division, stipulating the date and time of preparation and staff approval, and delivered to the Secretary of the Senate for reading before the amendment is voted on.

(2) Each amendment, rejected or adopted, must be printed in the journal, along with the name of the sponsor and the vote on each.

S50-160. Motions in Committee of the Whole. (1) All proper motions on second reading are debatable unless specified in S50-60.

(2) The only motions in order during Committee of the Whole are to:

(a) recommend passage or nonpassage;

(b) recommend concurrence or nonconcurrence (House amendments to Senate legislation);

(c) amend;

(d) indefinitely postpone;

(e) pass consideration;

(f) change the order in which legislation is placed on the agenda (nondebatable S50-60(14));

(g) rise (nondebatable S50-60(3));

(h) rise and report progress and ask leave to sit again (nondebatable S50-60(3)); or

(i) rise and report (nondebatable S50-60(3)).

(3) The motions listed in subsection (2) may be made in descending order as listed.

S50-170. Committee of the Whole – generally. (1) The Committee of the Whole may not appoint subcommittees.

(2) The Committee of the Whole may not punish its members for misconduct, but may report disorder to the Senate.

S50-180. Voting on second reading – positive disposition of motions.

(1) On Order of Business No. 7, in addition to other methods, a recorded vote may be made in the following manner: the chair may call for a voice vote to accept or reject a question. If the vote is other than unanimous, the chair may ask that the lesser number on the question indicate their vote by standing. The Secretary will then record the vote of those standing. The chair may then rule that unless excused those not standing and present have voted on the prevailing side of the question and that their vote be recorded as voting on the prevailing side. If there was a unanimous voice vote, all those present will be recorded as having voted for the question.

(2) A motion on second reading must be disposed of by a positive vote.

S50-190. Third reading procedure. (1) Unless rereferred to a committee by a majority vote after the adoption of the Committee of the Whole report but before moving to another order of business, all legislation passing second reading must be placed on third reading the day following the receipt of the engrossing or other appropriate printing report.

(2) On Order of Business No. 8 the Secretary shall read the title and the President shall state the question as follows: "Senate bill number (or other

appropriate identification)..... having been read three several times, the question is, shall the bill (or other appropriate identification) pass the Senate?"

(3) If an electronic voting system is used, the President shall state "Those in favor vote yes and those opposed vote no" and the Secretary will sound the signal and open the board for voting. After a reasonable pause the presiding officer asks "Has every member voted?" (reasonable pause), "Does any member wish to change his or her vote?" (reasonable pause), "The Secretary will record the vote."

S50-200. Senate voting – changing a vote – objection. (1) A roll call vote must be taken on the request of two Senators, if the request occurs before the vote is taken.

(2) On a roll call vote the names of the Senators must be called alphabetically, unless an electronic voting system is used. A Senator may not vote after the decision is announced from the chair. A Senator may not explain a vote until after the decision is announced from the chair.

(3) A Senator may move to change the Senator's vote, on any recorded vote, within 1 legislative day of the vote. The Senator making the motion shall first specify the bill number, the date of the vote, and the original vote tally. A vote may not be changed if it would affect the outcome of legislation. The motion is nondebatable. If none of the Senators present object, the change must be entered into the journal.

(4) If any Senator objects to the request in subsection (3), the Senator making the request may move to suspend the rules to allow the Senator to change the Senator's vote.

(5) An error caused by a malfunction of the voting system may be corrected without a vote within 10 minutes of the malfunction.

S50-210. Pairs. (1) Two Senators may pair on a question that will be determined by a majority vote. On a question requiring a two-thirds vote for adoption, three Senators may pair, with two Senators for the question and one Senator against. Pairing is permitted only when one of the paired Senators is excused when the vote is taken.

(2) An agreement to pair must be in writing and dated and signed by the Senators agreeing to be bound and must specify the duration of the pair. When an agreement to pair is filed with the Secretary of the Senate, it binds the Senators signing until the expiration of time for which it was signed, unless the paired Senators sooner appear and ask that the agreement be canceled.

S50-220. Call of the Senate. (1) In the absence of a quorum, a majority of Senators present may compel the attendance of absent Senators by ordering a call of the Senate.

(2) If a quorum is present, five Senators may order a call of the Senate.

(3) On a call of the Senate, a Senator who refuses to attend may be arrested by the Sergeant-at-Arms or any other person, as the majority of the Senators present direct. When the attendance of an absent Senator is secured and the Senate refuses to excuse the Senator's absence, the Senator may not be paid any expense payments while absent and is liable for the expenses incurred in procuring the Senator's attendance.

(4) During a call of the Senate, all business must be suspended. After a call has been ordered, no motion is in order except a motion to adjourn or remove the call. The call may be removed by a two-thirds vote of the members present.

S50-230. House amendments to Senate legislation. (1) When the House has properly returned Senate legislation with House amendments, the Senate shall announce the amendments on Order of Business No. 5 and the President shall place them on second reading for debate. The President may rerefer Senate legislation with House amendments to a committee for a

hearing if the House amendments constitute a significant change in the Senate legislation. The second reading vote is limited to consideration of the House amendments.

(2) If the Senate accepts House amendments, the Senate shall place the final form of the legislation on third reading to determine if the legislation, as amended, is passed or if the required vote is obtained.

(3) If the Senate rejects the House amendments, the Senate may request the House to recede from its amendments or may direct appointment of a conference committee and request the House to appoint a like committee.

S50-240. Governor's amendments. (1) When the Governor returns a bill with recommended amendments, the Senate shall announce the amendments under Order of Business No. 4.

(2) The Senate may debate and adopt or reject the Governor's recommended amendments on second reading on any legislative day.

(3) If both the Senate and the House of Representatives accept the Governor's recommended amendments on a bill that requires more than a majority vote for final passage, the Senate shall place the final form of the legislation on third reading to determine if the required vote is obtained.

S50-250. Governor's veto. (1) When the Governor returns a bill with a veto, the Senate shall announce the veto under Order of Business No. 4.

(2) On any legislative day, a Senator may move to override the Governor's veto by a two-thirds vote under Order of Business No. 9.

CHAPTER 6

Rules

S60-10. Senate rules – amendment – adoption – suspension. (1) A motion to amend or adopt a rule of the Senate must be referred to the Rules Committee without debate. A rule of the Senate may be amended or adopted only with the concurrence of a majority of the Senate and after 1 day's notice.

(2) A rule may be suspended temporarily by a two-thirds vote.

S60-20. Mason's Manual of Legislative Procedure. Mason's Manual of Legislative Procedure (2010) governs the proceedings of the Senate in all cases not covered by these rules.

S60-30. Joint rules superseded. A Senate rule, insofar as it relates to the internal proceedings of the Senate, supersedes a joint rule.

CHAPTER 7

Nominations from the Governor

S70-10. Nominations. (1) The Governor shall nominate and, by and with the consent of the Senate, appoint all officers whose offices are established by the Montana Constitution or which may be created by law and for whom appointment or election is not otherwise provided.

(2) If during a recess of the Senate a vacancy occurs in any office subject to Senate confirmation, the Governor shall appoint some fit person to discharge the duties of the office until the next meeting of the Senate, when the Governor shall nominate a person to fill the office.

S70-20. Receiving nominations – requesting bill drafts.

(1) Nominations received from the Governor must be:

- (a) received by the President;
- (b) delivered to the Secretary of the Senate; and
- (c) read under Order of Business No. 4, messages from the Governor.

(2) The Secretary shall distribute a copy of the list of nominations to each Senator.

(3) (a) The President of the Senate shall submit a bill draft request for a resolution for each nominee or each group of nominees read under Order of Business No. 4. These bill draft requests will not count against any bill draft request limit imposed on the President of the Senate.

(b) Prior to introduction of the resolution, the President of the Senate shall designate the appropriate committee chair or other member of the Senate to introduce the simple resolution.

S70-30. Committee process -- separate consideration. (1) (a) The committee shall research each nominee and may request biographical information from the Governor for each nominee if none has been provided.

(b) When the resolution has been prepared and introduced, the committee shall hold a hearing on the resolution after appropriate public notice has been given.

(2) (a) Except as provided in subsection (2)(b), following the hearings for a group of nominees, the committee shall issue standing committee reports to be considered on second reading, stating the committee's recommendations concerning the nominees.

(b) Following the hearings for the group of nominees, if a committee member wishes to have an individual nominee or group of nominees considered by the Senate separately from the group of nominees being considered by the committee, the committee member may prepare an amendment for executive action to strike or add a nominee or group of nominees. If a nominee or a group of nominees is stricken, the committee member that offered the amendment shall make a motion to request a committee resolution for the nominee or nominees to be considered by a separate resolution. A simple majority of the committee is sufficient in order to request a separate committee resolution.

(3) Within the Committee of the Whole, if a Senator wishes to have an individual nominee or group of nominees considered by the Senate separately from the group of nominees recommended by the committee, the Senator may prepare a floor amendment to strike or add a nominee or group of nominees. If a nominee or a group of nominees is stricken, a Senator may make a motion to request that the President of the Senate submit a bill draft request for that the nominee or nominees to be considered by a separate resolution.

(4) When the resolution for an individual or group nomination has been prepared and introduced, the committee shall take executive action on the resolution. When a hearing on the separated nomination was held prior to the committee's standing committee report, an additional hearing is not required to be held before the committee takes action on the separate resolution. After the committee's executive action, the committee chair shall issue a standing committee report.

(5) The Secretary will read the reports under Order of Business No. 2, reports of standing committees.

(6) After the report has been read, the resolution must be placed on Order of Business No. 7 the next legislative day for consideration by the Senate. Motions to approve or disapprove of the resolution are in order and may be debated. Approval upon second reading constitutes confirmation of the Governor's nominee. A motion to reconsider the approval or disapproval of a nomination made on second reading must occur within one legislative day. A motion to reconsider may not be made if the resolution approving a confirmation is no longer in the possession of the Senate.

Appendix A

List of Questions Requiring Other Than a Majority Vote

The following questions require the vote specified:

(1) a call of the Senate with a quorum pursuant to S50-220(2) (five Senators);

(2) a motion to lift a call of the Senate pursuant to S50-220(4) (two-thirds of the members present);

(3) a motion to amend or suspend rules pursuant to S60-10 (two-thirds);

(4) a motion to override the Governor's veto pursuant to S50-250 and Article VI, section 10(3), of the Montana Constitution (two-thirds);

(5) a motion to approve a bill to appropriate the principal of the coal trust fund pursuant to Article IX, section 5, of the Montana Constitution (three-fourths of each house);

(6) a motion to approve a bill to appropriate highway revenue as described in Article VIII, section 6, of the Montana Constitution for purposes other than those described in that section (three-fifths of each house);

(7) a motion to approve a bill proposing to amend the Montana Constitution pursuant to Article XIV, section 8, of the Montana Constitution (two-thirds of the entire Legislature);

(8) an appeal of the ruling of the presiding officer pursuant to S20-10 (one Senator, seconded by two other Senators);

(9) a motion to approve a bill conferring immunity from suit as described in Article II, section 18, of the Montana Constitution (two-thirds);

(10) a motion to approve a bill to appropriate the principal of the tobacco settlement trust fund pursuant to Article XII, section 4, of the Montana Constitution (two-thirds); and

(11) a motion to appropriate the principal of the noxious weed management trust fund pursuant to Article IX, section 6, of the Montana Constitution (three-fourths).

Adopted January 24, 2019

SENATE RESOLUTION NO. 2

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE STATE TAX APPEAL BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the State Tax Appeal Board, in accordance with section 15-2-101, MCA:

Dave McAlpin, Helena, Montana, appointed to a term ending January 1, 2025.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted January 24, 2019

SENATE RESOLUTION NO. 3

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF REVENUE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of Revenue, in accordance with sections 2-15-111 and 2-15-1302, MCA:

Gene Walborn, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted January 24, 2019

SENATE RESOLUTION NO. 4

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF VETERANS' AFFAIRS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Veterans' Affairs, in accordance with section 2-15-1205, MCA:

Clarence Sivertsen, Belt, Montana, appointed to a term ending August 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 6, 2019

SENATE RESOLUTION NO. 5

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE PUBLIC EMPLOYEES' RETIREMENT

BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Public Employees' Retirement Board, in accordance with section 2-15-1009, MCA:

Sheena Wilson, Helena, Montana, appointed to a term ending April 1, 2023.

Robyn Driscoll, Billings, Montana, appointed to a term ending April 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 6, 2019

SENATE RESOLUTION NO. 6

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE HARD-ROCK MINING IMPACT BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Hard-Rock Mining Impact Board, in accordance with section 2-15-1822, MCA:

Keith Kelly, Helena, Montana, appointed to a term ending January 1, 2021.

John Rogers, Clancy, Montana, appointed to a term ending January 1, 2021.

Mark Thompson, Butte, Montana, appointed to a term ending January 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 15, 2019

SENATE RESOLUTION NO. 7

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE COAL BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Coal Board, in accordance with section 2-15-1821, MCA:

Amber Henning, Missoula, Montana, appointed to a term ending January 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 15, 2019

SENATE RESOLUTION NO. 8

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF CRIME CONTROL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Crime Control, in accordance with section 2-15-2306, MCA:

Katie Campbell, Ronan, Montana, appointed to a term ending January 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 7, 2019

SENATE RESOLUTION NO. 9

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF PARDONS AND PAROLE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Pardons and Parole, in accordance with section 2-15-2305, MCA:

Renee Bauer, Helena, Montana, appointed to a term ending January 1, 2021.

Darrell Bell, Billings, Montana, appointed to a term ending January 1, 2025.
Annette Carter Farley, Helena, Montana, appointed to a term ending January 1, 2021.

Kristina Lucero, Missoula, Montana, appointed to a term ending January 1, 2025.

Brad Newman, Butte, Montana, appointed to a term ending January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 7, 2019

SENATE RESOLUTION NO. 10

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE TWELFTH JUDICIAL DISTRICT COURT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As District Judge of the Twelfth Judicial District of the State of Montana, in accordance with sections 3-1-1010 through 3-1-1013, MCA:

Kaydee Snipes Ruiz, Havre, Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 12, 2019

SENATE RESOLUTION NO. 11

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE TWENTY-FIRST JUDICIAL DISTRICT COURT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As District Judge of the Twenty-first Judicial District of the State of Montana, in accordance with sections 3-1-1010 through 3-1-1013, MCA:

Jennifer Lint, Victor, Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 21, 2019

SENATE RESOLUTION NO. 12

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE MONTANA FACILITY FINANCE AUTHORITY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Montana Facility Finance Authority, in accordance with section 2-15-1815, MCA:

Kim Rickard-Smeltzer, Townsend, Montana, appointed to a term ending January 1, 2023.

Matt Thiel, Missoula, Montana, appointed to a term ending January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 19, 2019

SENATE RESOLUTION NO. 13

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE COMMISSIONER OF LABOR AND INDUSTRY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Commissioner of Labor and Industry, in accordance with sections 2-15-111 and 2-15-1701, MCA:

Galen Hollenbaugh, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 1, 2019

SENATE RESOLUTION NO. 14

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS RELATED TO BUSINESS AND LABOR MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of Public Accountants, in accordance with section 2-15-1756, MCA:

Linda Harris, Absarokee, Montana, appointed to a term ending July 1, 2021.

Daniel Vuckovich, Great Falls, Montana, appointed to a term ending July 1, 2021.

Mike Huotte, Anaconda, Montana, appointed to a term ending July 1, 2022.

Kathleen VanDyke, Bozeman, Montana, appointed to a term ending July 1, 2022.

John Jacobsen, Billings, Montana, appointed to a term ending July 1, 2022.

(2) As members of the Board of Architects and Landscape Architects, in accordance with section 2-15-1761, MCA:

Bayliss Ward, Bozeman, Montana, appointed to a term ending April 1, 2020.

Dale Nelson, Great Falls, Montana, appointed to a term ending April 1, 2021.

(3) As members of the State Banking Board, in accordance with section 2-15-1025, MCA:

Tony Ennenga, Columbus, Montana, appointed to a term ending July 1, 2020.

Thomas Swenson, Missoula, Montana, appointed to a term ending July 1, 2020.

Kay Clevidence, Victor, Montana, appointed to a term ending July 1, 2021.

(4) As members of the Board of Professional Engineers and Professional Land Surveyors, in accordance with section 2-15-1763, MCA:

Wallace Gladstone, Billings, Montana, appointed to a term ending July 1, 2021.

Byron Stahly, Helena, Montana, appointed to a term ending July 1, 2021.

Troy Jensen, Sidney, Montana, appointed to a term ending July 1, 2022.

Tracy Worley, Missoula, Montana, appointed to a term ending July 1, 2022.

Ronald Drake, Helena, Montana, appointed to a term ending July 1, 2022.

(5) As members of the Board of Funeral Service, in accordance with section 2-15-1743, MCA:

John Tarr, Helena, Montana, appointed to a term ending July 1, 2022.

Jim Axelson, Butte, Montana, appointed to a term ending July 1, 2022.

Jayson Watkins, Kalispell, Montana, appointed to a term ending July 1, 2022.

Steve Schnider, Great Falls, Montana, appointed to a term ending July 1, 2023.

(6) As members of the Board of Private Security, in accordance with section 2-15-1781, MCA:

James Thomas, Canyon Creek, Montana, appointed to a term ending August 1, 2020.

Holly Dershem-Bruce, Glendive, Montana, appointed to a term ending August 1, 2020.

Wynn Meehan, Townsend, Montana, appointed to a term ending August 1, 2021.

Hal Richardson, Bozeman, Montana, appointed to a term ending August 1, 2021.

(7) As members of the Board of Real Estate Appraisers, in accordance with section 2-15-1758, MCA:

Thomas Stevens, Missoula, Montana, appointed to a term ending May 1, 2020.

Gregory Thornquist, Helena, Montana, appointed to a term ending May 1, 2020.

Timothy McGinnis, Polson, Montana, appointed to a term ending May 1, 2021.

Ed Schoenen, Great Falls, Montana, appointed to a term ending May 1, 2021.

(8) As members of the Board of Realty Regulation, in accordance with section 2-15-1757, MCA:

Julie Gardner, Missoula, Montana, appointed to a term ending May 1, 2020.

Ric Smith, Polson, Montana, appointed to a term ending May 1, 2021.

Lindsey Hromadka, Whitefish, Montana, appointed to a term ending May 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 7, 2019

SENATE RESOLUTION NO. 15

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS RELATED TO BUSINESS AND LABOR MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Board of Barbers and Cosmetologists, in accordance with section 2-15-1747, MCA:

Paula Evans, Missoula, Montana, appointed to a term ending October 1, 2021.

Katie Fontana, Great Falls, Montana, appointed to a term ending October 1, 2023.

Angela Printz, Livingston, Montana, appointed to a term ending October 1, 2022.

(2) As members of the State Electrical Board, in accordance with section 2-15-1764, MCA:

Harry Freebourn, Butte, Montana, appointed to a term ending July 1, 2022.

John Gordon, Butte, Montana, appointed to a term ending July 1, 2023.

(3) As members of the Board of Housing, in accordance with section 2-15-1814, MCA:

Sheila Rice, Great Falls, Montana, appointed to a term ending January 1, 2023.

Jeanette McKee, Hamilton, Montana, appointed to a term ending January 1, 2023.

(4) As members of the Board of Horseracing, in accordance with section 2-15-1809, MCA:

Ralph Young, Columbus, Montana, appointed to a term ending January 1, 2020.

Barry Stang, Helena, Montana, appointed to a term ending January 1, 2020.

John Hayes, Great Falls, Montana, appointed to a term ending January 1, 2021.

Jody Smith, Miles City, Montana, appointed to a term ending January 1, 2021.

(5) As members of the Board of Plumbers, in accordance with section 2-15-1765, MCA:

Jeffrey Gruizenga, Billings, Montana, appointed to a term ending May 1, 2020.

Dan Miles, Butte, Montana, appointed to a term ending May 1, 2021.

Timothy Schrapps, Butte, Montana, appointed to a term ending May 1, 2021.

Quinton Queer, Butte, Montana, appointed to a term ending May 1, 2022.

(6) As members of the Commission for Human Rights, in accordance with section 2-15-1706, MCA:

Tim Tatarka, Billings, Montana, appointed to a term ending January 1, 2021.

Stephanie Baucus, Billings, Montana, appointed to a term ending January 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 7, 2019

SENATE RESOLUTION NO. 16

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA
CONCURRING IN, CONFIRMING, AND CONSENTING TO THE

APPOINTMENTS TO THE BOARD OF REGENTS OF HIGHER EDUCATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Regents of Higher Education, in accordance with section 2-15-1508, MCA:

Dalton Johnson, Clancy, Montana, appointed to a term ending June 30, 2019.

Casey Lozar, Helena, Montana, appointed to a term ending February 1, 2025.

Brianne Rogers, Bozeman, Montana, appointed to a term ending February 1, 2024.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 12, 2019

SENATE RESOLUTION NO. 17

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE MONTANA ARTS COUNCIL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Montana Arts Council, in accordance with section 22-2-102, MCA:

Angella Ahn, Bozeman, Montana, appointed to a term ending February 1, 2023.

Corky Clairmont, Ronan, Montana, appointed to a term ending February 1, 2023.

Tom Cordingley, Helena, Montana, appointed to a term ending February 1, 2023.

Arlene Parisot, Helena, Montana, appointed to a term ending February 1, 2023.

Jay Pyette, Havre, Montana, appointed to a term ending February 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 21, 2019

SENATE RESOLUTION NO. 18

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE MONTANA HISTORICAL SOCIETY BOARD OF TRUSTEES MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Montana Historical Society Board of Trustees, in accordance with section 22-3-104, MCA:

Ed Jasmin, Helena, Montana, appointed to a term ending July 1, 2023.

Kent Kleinkopf, Missoula, Montana, appointed to a term ending July 1, 2022.

Steve Lozar, Polson, Montana, appointed to a term ending July 1, 2022.

Douglas MacDonald, Missoula, Montana, appointed to a term ending July 1, 2023.

Thomas Minckler, Billings, Montana, appointed to a term ending July 1, 2023.

Michael Shields, Helena, Montana, appointed to a term ending July 1, 2019.

Harold Stearns, Missoula, Montana, appointed to a term ending July 1, 2022.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 21, 2019

SENATE RESOLUTION NO. 19

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF PUBLIC EDUCATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATIONS DATED JANUARY 10 AND 11, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Public Education, in accordance with section 2-15-1508, MCA:

Jesse Barnhart, Broadus, Montana, appointed to a term ending February 1, 2025.

Madalyn Quinlan, Helena, Montana, appointed to a term ending February 1, 2026.

Scott Stearns, Missoula, Montana, appointed to a term ending February 1, 2020.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 21, 2019

SENATE RESOLUTION NO. 20

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF ASSOCIATE WATER JUDGE MADE BY THE CHIEF JUSTICE OF THE MONTANA SUPREME COURT AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 17, 2019, TO THE SENATE.

WHEREAS, the Chief Justice of the Supreme Court of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Chief Justice pursuant to section 3-7-221, MCA:

As Associate Water Judge of the State of Montana, in accordance with sections 3-1-1010 through 3-1-1013, MCA:

Stephen R. Brown, Missoula, Montana, appointed to a term ending June 30, 2020.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 12, 2019

SENATE RESOLUTION NO. 21

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF HAIL INSURANCE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Hail Insurance, in accordance with section 2-15-3003, MCA:

Gary Gollehon, Brady, Montana, appointed to a term ending May 1, 2020.

Judy Tureck, Coffee Creek, Montana, appointed to a term ending May 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy

of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 13, 2019

SENATE RESOLUTION NO. 22

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF VETERINARY MEDICINE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Veterinary Medicine, in accordance with section 2-15-1742, MCA:

Barbara Calm, Kila, Montana, appointed to a term ending August 1, 2022.

Tia Nelson, Helena, Montana, appointed to a term ending August 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 13, 2019

SENATE RESOLUTION NO. 23

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of the Department of Environmental Quality, in accordance with sections 2-15-111 and 2-15-3501, MCA:

Shaun McGrath, Helena, Montana, appointed to serve a term at the pleasure of the governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 13, 2019

SENATE RESOLUTION NO. 24

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF WATER WELL CONTRACTORS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Water Well Contractors, in accordance with section 2-15-3307, MCA:

Kevin Haggerty, Bozeman, Montana, appointed to a term ending July 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 7, 2019

SENATE RESOLUTION NO. 25

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF ENVIRONMENTAL REVIEW MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Environmental Review, in accordance with section 2-15-3502, MCA:

Dexter Busby, Great Falls, Montana, appointed to a term ending January 1, 2021.

John DeArment, Missoula, Montana, appointed to a term ending January 1, 2021.

Christine Deveny, Helena, Montana, appointed to a term ending January 1, 2021.

Christian Tweeten, Missoula, Montana, appointed to a term ending January 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 13, 2019

SENATE RESOLUTION NO. 26

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF OUTFITTERS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATIONS DATED JANUARY 10, 2019, AND JANUARY 11, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Outfitters, in accordance with section 2-15-1773, MCA:

Rob Arnaud, Bozeman, Montana, appointed to a term ending October 1, 2021.

Matt Greemore, Twin Bridges, Montana, appointed to a term ending October 1, 2021.

Todd Earp, Corvallis, Montana, appointed to a term ending October 1, 2019.

Kerry Fee, Livingston, Montana, appointed to a term ending October 1, 2020.

Julie French, Scobey, Montana, appointed to a term ending October 1, 2020.

John Way, Ennis, Montana, appointed to a term ending October 1, 2020.

Hugo Tureck, Coffee Creek, Montana, appointed to a term ending October 1, 2020.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 22, 2019

SENATE RESOLUTION NO. 27

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE STATE PARKS AND RECREATION BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATIONS DATED JANUARY 10, 2019, AND JANUARY 11, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the State Parks and Recreation Board, in accordance with section 2-15-3406, MCA:

Scott Brown, Billings, Montana, appointed to a term ending January 1, 2023.

Erica Lighthiser, Livingston, Montana, appointed to a term ending January 1, 2021.

Mary Sheehy Moe, Great Falls, Montana, appointed to a term ending January 1, 2023.

Betty Stone, Glasgow, Montana, appointed to a term ending January 1, 2021.

Angie Grove, Helena, Montana, appointed to a term ending January 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 24, 2019

SENATE RESOLUTION NO. 28

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE FISH AND WILDLIFE COMMISSION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Fish and Wildlife Commission, in accordance with section 2-15-3402, MCA:

Tim Aldrich, Missoula, Montana, appointed to a term ending January 1, 2021.

Shane Colton, Billings, Montana, appointed to a term ending January 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 24, 2019

SENATE RESOLUTION NO. 29

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE FOURTH JUDICIAL DISTRICT COURT MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 5, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As District Court Judge of the Fourth Judicial District of the State of Montana, in accordance with sections 3-1-1010 through 3-1-1013, MCA:

Shane Vannatta, Missoula, Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 8, 2019

SENATE RESOLUTION NO. 30

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE MONTANA FACILITY FINANCE AUTHORITY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 12, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Montana Facility Finance Authority, in accordance with section 2-15-1815, MCA:

Paul Komlosi, White Sulphur Springs, Montana, appointed to a term ending January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted February 19, 2019

SENATE RESOLUTION NO. 31

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARDS OF ALTERNATIVE HEALTH CARE, BEHAVIORAL HEALTH, CHIROPRACTORS, DENTISTRY, HEARING AID DISPENSERS, MASSAGE THERAPY, MEDICAL EXAMINERS, NURSING HOME ADMINISTRATORS, NURSING, OCCUPATIONAL THERAPY PRACTICE, PHARMACY, PHYSICAL THERAPY EXAMINERS, PSYCHOLOGISTS, RADIOLOGIC TECHNOLOGISTS, RESPIRATORY CARE PRACTITIONERS, SANITARIANS, SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS, AND PUBLIC ASSISTANCE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATIONS DATED JANUARY 10 AND 11, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

(1) As members of the Alternative Health Care Board, in accordance with section 2-15-1730, MCA:

Jazmin Price, Bozeman, Montana, appointed to a term ending September 1, 2021.

Sheehan Ednie-Rosen, Victor, Montana, appointed to a term ending September 1, 2022.

AshLy Tubbs, East Helena, Montana, appointed to a term ending September 1, 2022.

(2) As members of the Board of Behavioral Health, in accordance with section 2-15-1744, MCA:

Megan Bailey, Missoula, Montana, appointed to a term ending January 1, 2021.

Kimberly Gardner, Helena, Montana, appointed to a term ending January 1, 2021.

Durand Bear Medicine, Browning, Montana, appointed to a term ending January 1, 2021.

Cathy Jenni, Missoula, Montana, appointed to a term ending January 1, 2021.

Adrian Sagan, Helena, Montana, appointed to a term ending January 1, 2021.

(3) As members of the Board of Chiropractors, in accordance with section 2-15-1737, MCA:

Vincent Maddio, Helena, Montana, appointed to a term ending January 1, 2021.

Sheryl Olson, Stevensville, Montana, appointed to a term ending January 1, 2021.

Marcus Nynas, Billings, Montana, appointed to a term ending January 1, 2021.

Greg Pisk, Kalispell, Montana, appointed to a term ending January 1, 2022.

(4) As members of the Board of Dentistry, in accordance with section 2-15-1732, MCA:

Leslie Hayes, Belgrade, Montana, appointed to a term ending April 1, 2022.

Diedri Durocher, Great Falls, Montana, appointed to a term ending April 1, 2022.

Clifford Christenot, Libby, Montana, appointed to a term ending April 1, 2022.

Aimee Ameline, Great Falls, Montana, appointed to a term ending April 1, 2023.

(5) As members of the Board of Hearing Aid Dispensers, in accordance with section 2-15-1740, MCA:

Michael Spinti, Great Falls, Montana, appointed to a term ending July 1, 2020.

Edward Eaton, Helena, Montana, appointed to a term ending July 1, 2020.

Dennis Scoggins, Lima, Montana, appointed to a term ending July 1, 2020.

(6) As members of the Board of Massage Therapy, in accordance with section 2-15-1782, MCA:

Sonia Davis, Billings, Montana, appointed to a term ending May 1, 2022.

Anne Gergen, Broadus, Montana, appointed to a term ending May 1, 2022.

(7) As members of the Board of Medical Examiners, in accordance with section 2-15-1731, MCA:

Brian Reed, Rollins, Montana, appointed to a term ending January 1, 2021.

Tammy Scott, Missoula, Montana, appointed to a term ending September 1, 2021.

James Guyer, Billings, Montana, appointed to a term ending September 1, 2021.

Christine Emerson, Helena, Montana, appointed to a term ending September 1, 2021.

C.E. Abramson, Missoula, Montana, appointed to a term ending September 1, 2021.

Ana Diaz, Billings, Montana, appointed to a term ending September 1, 2021.

(8) As members of the Board of Nursing Home Administrators, in accordance with section 2-15-1735, MCA:

Sylvia Moore, Clancy, Montana, appointed to a term ending June 1, 2022.

Ryan Tooke, Ekalaka, Montana, appointed to a term ending June 1, 2022.

Carla Neiman, Plains, Montana, appointed to a term ending June 1, 2022.

Thomas Klotz, Helena, Montana, appointed to a term ending June 1, 2023.

(9) As members of the Board of Nursing, in accordance with section 2-15-1734, MCA:

Sharon Sweeney Fee, Livingston, Montana, appointed to a term ending July 1, 2021.

Thomas Glover, Great Falls, Montana, appointed to a term ending July 1, 2022.

Deborah Johnson, Helena, Montana, appointed to a term ending July 1, 2022.

Darlene Schulz, Deer Lodge, Montana, appointed to a term ending July 1, 2022.

Leesha Ford, Great Falls, Montana, appointed to a term ending July 1, 2022.

Sarah Spangler, Havre, Montana, appointed to a term ending July 1, 2019.

(10) As members of the Board of Occupational Therapy Practice, in accordance with section 2-15-1749, MCA:

Lora Wier, Choteau, Montana, appointed to a term ending December 31, 2020.

Brenda Toner, Missoula, Montana, appointed to a term ending December 31, 2020.

Twylla Kirchen, Shepherd, appointed to a term ending December 31, 2022.

Deborah Swingley, Helena, appointed to a term ending December 31, 2022.

(11) As members of the Board of Pharmacy, in accordance with section 2-15-1733, MCA:

Paul Brand, Florence, Montana appointed to a term ending July 1, 2019.

Marian Jensen, Butte, Montana, appointed to a term ending July 1, 2022.

Courtney Bahny, Helena, Montana, appointed to a term ending July 1, 2023.

Charmell Owens, Missoula, Montana, appointed to a term ending July 1, 2023.

(12) As members of the Board of Physical Therapy Examiners, in accordance with section 2-15-1748, MCA:

Pat Goodover, Great Falls, Montana, appointed to a term ending July 1, 2021.

Kelsey Wadsworth, Bozeman, Montana, appointed to a term ending July 1, 2021.

Bridget Mennie, Laurel, Montana, appointed to a term ending July 1, 2021.

(13) As members of the Board of Psychologists, in accordance with section 2-15-1741, MCA:

Shelley Windsor, Anaconda, Montana, appointed to a term ending September 1, 2022.

Sara Boilen, Whitefish, Montana, appointed to a term ending September 1, 2023.

(14) As members of the Board of Radiologic Technologists, in accordance with section 2-15-1738, MCA:

Nathan Richardson, Kalispell, Montana, appointed to a term ending July 1, 2020.

Jeffrey Lindenbaum, Billings, Montana, appointed to a term ending July 1, 2020.

Barbara Anderson, Culbertson, Montana, appointed to a term ending July 1, 2020.

Robin Johnson, Dillon, Montana, appointed to a term ending July 1, 2021.

Daniel Funsch, Missoula, Montana, appointed to a term ending July 1, 2021.

(15) As members of the Board of Respiratory Care Practitioners, in accordance with section 2-15-1750, MCA:

Tony Miller, Joplin, Montana, appointed to a term ending January 1, 2021.

Rusty Davies, Billings, Montana, appointed to a term ending January 1, 2021.

Leonard Bates, Wolf Creek, Montana, appointed to a term ending January 1, 2021.

(16) As members of the Board of Sanitarians, in accordance with section 2-15-1751, MCA:

Eugene Pizzini, Helena, Montana, appointed to a term ending July 1, 2020.

Megan Bullock, Boulder, Montana, appointed to a term ending July 1, 2021.

(17) As members of the Board of Speech-Language Pathologists and Audiologists, in accordance with section 2-15-1739, MCA:

Kelsey Mann, Billings, Montana, appointed to a term ending December 31, 2020.

Gene Bukowski, Billings, Montana, appointed to a term ending December 31, 2020.

(18) As a member of the Board of Public Assistance, in accordance with section 2-15-2203, MCA:

Carolyn Pease-Lopez, Billings, Montana, appointed to a term ending January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 12, 2019

SENATE RESOLUTION NO. 32

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF HOUSING MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Housing, in accordance with section 2-15-1814, MCA:

Robert Gauthier, Ronan, Montana, appointed to a term ending January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 18, 2019

SENATE RESOLUTION NO. 33

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE UNEMPLOYMENT INSURANCE APPEALS BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Unemployment Insurance Appeals Board, in accordance with section 2-15-1704, MCA:

Bob Murdo, Helena, Montana, appointed to a term ending January 1, 2021.

Bruce Campbell, Helena, Montana, appointed to a term ending January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 14, 2019

SENATE RESOLUTION NO. 34

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE COAL BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 15, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Coal Board, in accordance with section 2-15-1821, MCA:

Marianne Roose, Eureka, Montana, appointed to a term ending January 1, 2023.

Tim Schaff, Roundup, Montana, appointed to a term ending January 1, 2023.

Veronica Small-Eastman, Lodge Grass, Montana, appointed to a term ending January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 12, 2019

SENATE RESOLUTION NO. 35

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE HARD-ROCK MINING IMPACT BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 15, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Hard-Rock Mining Impact Board, in accordance with section 2-15-1822, MCA:

Jane Weber, Great Falls, Montana, appointed to a term ending January 1, 2023.

Donna von Nieda, Nye, Montana, appointed to a term ending January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 12, 2019

SENATE RESOLUTION NO. 36

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE STATE COMPENSATION INSURANCE FUND MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Directors of the State Compensation Insurance Fund, in accordance with section 2-15-1019, MCA:

Lynda Moss, Billings, Montana, appointed to a term ending May 1, 2021.

Lance Zanto, Helena, Montana, appointed to a term ending May 1, 2021.

Cliff Larsen, Missoula, Montana, appointed to a term ending May 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above

appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 10, 2019

SENATE RESOLUTION NO. 37

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE STATE BANKING BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 15, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the State Banking Board, in accordance with section 2-15-1025, MCA:

David Madison, Shelby, Montana, appointed to a term ending July 1, 2021.
NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted March 14, 2019

SENATE RESOLUTION NO. 39

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF INVESTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATIONS DATED JANUARY 11, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Investments, in accordance with section 2-15-1808, MCA:

Diane Fladmo, Helena, Montana, appointed to a term ending January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 10, 2019

SENATE RESOLUTION NO. 40

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF INVESTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 11, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Investments, in accordance with section 2-15-1808, MCA:

Karl Englund, Missoula, Montana, appointed to a term ending January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 10, 2019

SENATE RESOLUTION NO. 41

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF INVESTMENTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED JANUARY 10, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Investments, in accordance with section 2-15-1808, MCA:

Jeff Greenfield, Shepherd, Montana, appointed to a term ending January 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 10, 2019

SENATE RESOLUTION NO. 42

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF INVESTMENTS MADE BY THE

GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATIONS DATED JANUARY 10 AND 11, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Investments, in accordance with section 2-15-1808, MCA:

Mark Noennig, Billings, Montana, appointed to a term ending January 1, 2021.

Maggie Peterson, Anaconda, Montana, appointed to a term ending January 1, 2021.

Jack Prothero, Great Falls, Montana, appointed to a term ending January 1, 2021.

Jim Edwards, Helena, Montana, appointed to a term ending January 1, 2021.

Bruce Nelson, Bozeman, Montana, appointed to a term ending January 1, 2023.

Terry Cohea, Helena, Montana, appointed to a term ending January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 10, 2019

SENATE RESOLUTION NO. 43

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT OF THE DIRECTOR OF THE DEPARTMENT OF COMMERCE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED FEBRUARY 28, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As Director of the Department of Commerce, in accordance with sections 2-15-111 and 2-15-1801, MCA:

Tara Rice, Helena, Montana, appointed to serve a term at the pleasure of the Governor.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 10, 2019

SENATE RESOLUTION NO. 44

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF OIL AND GAS CONSERVATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 8, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Oil and Gas Conservation, in accordance with section 2-15-3303, MCA:

Steve Durrett, Billings, Montana, appointed to a term ending January 1, 2023.

Paul Gatzemeier, Billings, Montana, appointed to a term ending January 1, 2023.

Linda Nelson, Billings, Montana, appointed to a term ending January 1, 2021.

Mike Weber, Fairview, Montana, appointed to a term ending January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 17, 2019

SENATE RESOLUTION NO. 45

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE TRANSPORTATION COMMISSION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATIONS DATED MARCH 8, 2019, AND MARCH 15, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Transportation Commission, in accordance with section 2-15-2502, MCA:

Mike Hope, Bozeman, Montana, appointed to a term ending January 1, 2021.

Noel Sansaver, Wolf Point, Montana, appointed to a term ending January 1, 2023.

Tammi Fisher, Kalispell, Montana, appointed to a term ending January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy

of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 17, 2019

SENATE RESOLUTION NO. 46

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF PERSONNEL APPEALS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 15, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Personnel Appeals, in accordance with section 2-15-1705, MCA:

Mario Martinez, Great Falls, Montana, appointed to a term ending January 1, 2023.

Kevin McRae, Helena, Montana, appointed to a term ending January 1, 2023.

Katie Nordstrom, Billings, Montana, appointed to a term ending January 1, 2023.

LeRoy Schramm, Helena, Montana, appointed to a term ending January 1, 2023.

Jenny Stringer, Livingston, Montana, appointed to a term ending January 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 10, 2019

SENATE RESOLUTION NO. 47

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF REGENTS OF HIGHER EDUCATION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 15, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Regents of Higher Education, in accordance with section 2-15-1508, MCA:

Joyce Dombrowski, Missoula, Montana, appointed to a term ending February 1, 2026.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 10, 2019

SENATE RESOLUTION NO. 48

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE FISH AND WILDLIFE COMMISSION MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 15, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Fish and Wildlife Commission, in accordance with section 2-15-3402, MCA:

Logan Brower, Scobey, Montana, appointed to a term ending January 1, 2023.

Pat Byorth, Bozeman, Montana, appointed to a term ending January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 25, 2019

SENATE RESOLUTION NO. 49

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE PUBLIC EMPLOYEES' RETIREMENT BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 15, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Public Employees' Retirement Board, in accordance with section 2-15-1009, MCA:

Maggie Peterson, Anaconda, Montana, appointed to a term ending April 1, 2024.

Dave Severson, Missoula, Montana, appointed to a term ending April 1, 2021.

Marty Tuttle, Clancy, Montana, appointed to a term ending April 1, 2024.
NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 10, 2019

SENATE RESOLUTION NO. 50

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF ENVIRONMENTAL REVIEW MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 22, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Environmental Review, in accordance with section 2-15-3502, MCA:

Hillary Hanson, Kalispell, Montana, appointed to a term ending January 1, 2023.

Melissa Hornbein, Helena, Montana, appointed to a term ending January 1, 2023.

David Lehnherr, Red Lodge, Montana, appointed to a term ending January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 16, 2019

SENATE RESOLUTION NO. 51

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF BEHAVIORAL HEALTH MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED MARCH 22, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Behavioral Health, in accordance with section 2-15-1744, MCA:

Laura Dever, Great Falls, Montana, appointed to a term ending January 1, 2023.

Carol Staben-Burroughs, Bozeman, Montana, appointed to a term ending January 1, 2023.

Mona Sumner, Billings, Montana, appointed to a term ending January 1, 2023.

Erin Williams, Missoula, Montana, appointed to a term ending January 1, 2023.
NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 10, 2019

SENATE RESOLUTION NO. 53

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF DENTISTRY MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 5, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Dentistry, in accordance with section 2-15-1732, MCA:

Diane Klemann, Billings, Montana, appointed to a term ending April 1, 2024.

Paul Sims, Butte, Montana, appointed to a term ending April 1, 2024.
NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 18, 2019

SENATE RESOLUTION NO. 54

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE COMMISSION FOR HUMAN RIGHTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 5, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Commission for Human Rights, in accordance with section 2-15-1706, MCA:

Ann Brodsky, Helena, Montana, appointed to a term ending January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 16, 2019

SENATE RESOLUTION NO. 55

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF HAIL INSURANCE MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 5, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Hail Insurance, in accordance with section 2-15-3003, MCA:

Jim Schillinger, Circle, Montana, appointed to a term ending May 1, 2022. NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 18, 2019

SENATE RESOLUTION NO. 56

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF VETERANS' AFFAIRS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 12, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Veterans' Affairs, in accordance with section 2-15-1205, MCA:

Casey Jordan, Molt, Montana, appointed to a term ending August 1, 2022.

Ron Milam, Missoula, Montana, appointed to a term ending August 1, 2022.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 23, 2019

SENATE RESOLUTION NO. 57

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF CRIME CONTROL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 12, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Crime Control, in accordance with section 2-15-2306, MCA:

Laurie Barron, Whitefish, Montana, appointed to a term ending January 1, 2023.

Brenda Desmond, Missoula, Montana, appointed to a term ending January 1, 2023.

Rick Kirn, Poplar, Montana, appointed to a term ending January 1, 2023.

Beth McLaughlin, Helena, Montana, appointed to a term ending January 1, 2023.

Reg Michael, Helena, Montana, appointed to a term ending January 1, 2023.

Peter Ohman, Bozeman, Montana, appointed to a term ending January 1, 2023.

Angela Russell, Lodge Grass, Montana, appointed to a term ending January 1, 2023.

Derek VanLuchene, Helena, Montana, appointed to a term ending January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 24, 2019

SENATE RESOLUTION NO. 58

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE LIVESTOCK LOSS BOARD MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 12, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Livestock Loss Board, in accordance with section 2-15-3110, MCA:

Karli Johnson, Choteau, Montana, appointed to a term ending January 1, 2023.

Patricia Quisno, Harlem, Montana, appointed to a term ending January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 23, 2019

SENATE RESOLUTION NO. 59

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF MEDICAL EXAMINERS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 12, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Medical Examiners, in accordance with section 2-15-1731, MCA:

Dr. Molly Biehl, Sheridan, Montana, appointed to a term ending September 1, 2022.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 25, 2019

SENATE RESOLUTION NO. 60

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF AERONAUTICS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 12, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Aeronautics, in accordance with section 2-15-2506, MCA:

Dan Hargrove, Billings, Montana, appointed to a term ending January 1, 2023.

Tom Schoenleben, Stevensville, Montana, appointed to a term ending January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above

appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 23, 2019

SENATE RESOLUTION NO. 61

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE MONTANA PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 12, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Montana Public Safety Officer Standards and Training Council, in accordance with section 44-4-402, MCA:

Kristine White, Forsyth, Montana, appointed to a term ending January 1, 2023.

Jess Edwards, Browning, Montana, appointed to a term ending January 1, 2023.

Wyatt Glade, Miles City, Montana, appointed to a term ending January 1, 2023.

Kevin Olson, Helena, Montana, appointed to a term ending January 1, 2023.

Ryan Oster, Hamilton, Montana, appointed to a term ending January 1, 2023.

Tia Robbin, Kalispell, Montana, appointed to a term ending January 1, 2023.

Matt Saylor, Butte, Montana, appointed to a term ending January 1, 2023.

Fred Sparks, Laurel, Montana, appointed to a term ending January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 24, 2019

SENATE RESOLUTION NO. 62

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENT TO THE BOARD OF BARBERS AND COSMETOLOGISTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 12, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointment, below designated, that has been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As a member of the Board of Barbers and Cosmetologists, in accordance with section 2-15-1747, MCA:

Lauren Hansen, Helena, Montana, appointed to a term ending October 1, 2020.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointment and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 23, 2019

SENATE RESOLUTION NO. 63

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF HORSERACING MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 12, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Horseracing, in accordance with section 2-15-1809, MCA:

Gary Koepplin, Florence, Montana, appointed to a term ending January 1, 2022.

Dale Mahlum, Missoula, Montana, appointed to a term ending January 1, 2022.

Shawn Real Bird, Crow Agency, Montana, appointed to a term ending January 1, 2022.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 23, 2019

SENATE RESOLUTION NO. 64

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE BOARD OF ARCHITECTS AND LANDSCAPE ARCHITECTS MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 12, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Architects and Landscape Architects, in accordance with section 2-15-1761, MCA:

Maire O'Neill Conrad, Bozeman, Montana, appointed to a term ending April 1, 2022.

Shelly Engler, Bozeman, Montana, appointed to a term ending April 1, 2022.

Steven Small, Billings, Montana, appointed to a term ending April 1, 2022.

Nathan Steiner, Billings, Montana, appointed to a term ending April 1, 2022.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 23, 2019

SENATE RESOLUTION NO. 65

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA CONCURRING IN, CONFIRMING, AND CONSENTING TO THE APPOINTMENTS TO THE STATE COMPENSATION INSURANCE FUND MADE BY THE GOVERNOR AND SUBMITTED BY WRITTEN COMMUNICATION DATED APRIL 12, 2019, TO THE SENATE.

WHEREAS, the Governor of the State of Montana has made the appointments, below designated, that have been submitted to the Senate by the Governor pursuant to section 5-5-302, MCA:

As members of the Board of Directors of the State Compensation Insurance Fund, in accordance with section 2-15-1019, MCA:

Jack Owens, Missoula, Montana, appointed to a term ending January 1, 2023.

Jan VanRiper, Helena, Montana, appointed to a term ending January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the Senate of the Regular Session of the 66th Legislature of the State of Montana does hereby concur in, confirm, and consent to the above appointments and that the Secretary of the Senate immediately deliver a copy of this resolution to the Secretary of State and to the Governor pursuant to section 5-5-303, MCA.

Adopted April 23, 2019

2018 BALLOT ISSUES

**Approved by Voters in the
November 2018 General Election**

LEGISLATIVE REFERENDUM NO. 128 (SB 85)**AN ACT REFERRED BY THE LEGISLATURE**

The 2017 Montana legislature has submitted this proposal for a vote. LR-128 asks Montana voters to continue the existing 6-mill levy to support Montana's public colleges and universities. Without voter approval, the current 6-mill levy to support Montana's public colleges and universities will expire in January 2019. If passed, this proposal will be effective on January 1, 2019 and terminate January 1, 2029.

According to revenue estimates, the projected annual revenue from the 6-mill levy is \$20,890,000 for fiscal year 2020 and is estimated to grow to \$23,620,000 by fiscal year 2023.

The complete text of LR-128 is as follows:

AN ACT SUBMITTING A 6-MILL LEVY FOR CONTINUED SUPPORT OF THE MONTANA UNIVERSITY SYSTEM TO THE ELECTORATE; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Tax levy for university system. There is levied upon the taxable value of all real estate and personal property subject to taxation in the state of Montana 6 mills for the continued support, maintenance, and improvement of the Montana university system. The funds raised from the levy must be deposited in the state special revenue fund.

Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 10, part 1, and the provisions of Title 15, chapter 10, part 1, apply to [section 1].

Section 3. Effective date. If approved by the electorate, [this act] is effective January 1, 2019.

Section 4. Termination. [Section 1] terminates December 31, 2028.

Section 5. Submission to electorate. This act shall be submitted to the qualified electors of Montana at the general election to be held in November 2018 by printing on the ballot the full title of this act and the following:

Legislative Referendum No. 128 was approved by the following vote at the General Election held November 6, 2018:

For:	307,704
Against:	181,171

LEGISLATIVE REFERENDUM NO. 129 (SB 352)**AN ACT REFERRED BY THE LEGISLATURE**

The 2017 Legislature has submitted this proposal for a vote. LR-129 prohibits a person from collecting another voter's ballot, with certain exceptions. The prohibition would not apply to an election official, postal worker, caregiver, family member, household member, or an acquaintance. Any such individuals that are caregivers, family members, household members or acquaintances would be required to sign a registry at the polling place or the election administrator's office when delivering the ballot and are required to provide the following information: the individual's name, address, and phone number; the voter's name and address; and the individual's relationship to the voter. An individual who violates any provision within LR-129 could be fined \$500 for each ballot unlawfully collected.

AN ACT ESTABLISHING THE MONTANA BALLOT INTERFERENCE PREVENTION ACT; PROHIBITING THE COLLECTION OF ANOTHER INDIVIDUAL'S BALLOT; PROVIDING EXCEPTIONS; REQUIRING CERTAIN INDIVIDUALS WHO ARE AUTHORIZED TO COLLECT BALLOTS TO PROVIDE CERTAIN INFORMATION WHEN DELIVERING THE BALLOT TO A POLLING PLACE OR ELECTION ADMINISTRATOR'S OFFICE; PROVIDING PENALTIES AND DEFINITIONS; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Short title. [Sections 1 through 5] may be cited as the "Montana Ballot Interference Prevention Act".

Section 2. Definitions. As used in [sections 1 through 5], the following definitions apply:

- (1) "Acquaintance" means an individual known by the voter.
- (2) "Caregiver" means an individual who provides medical or health care assistance to the voter in a residence, nursing care institution, hospice facility, assisted living center, assisted living home, residential care institution, adult day health care facility, or adult foster care home.
- (3) "Collect" means to gain possession or control of a ballot.
- (4) "Family member" means an individual who is related to the voter by blood, marriage, adoption, or legal guardianship.
- (5) "Household member" means an individual who resides at the same residence as the voter.

Section 3. Ballot collection prohibited – exceptions. (1) Except as provided in subsection (2), a person may not knowingly collect a voter's voted or unvoted ballot.

- (2) This section does not apply to:
 - (a) an election official;
 - (b) a United States postal service worker or other individual specifically authorized by law to transmit United States mail;
 - (c) a caregiver;
 - (d) a family member;
 - (e) a household member; or
 - (f) an acquaintance.
- (3) An individual authorized to collect a voter's ballot pursuant to subsection (2)(c) through (2)(f) may not collect and convey more than six ballots.

Section 4. Record of delivery. An individual permitted to collect and convey a ballot under [section 3(2)(c) through (2)(f)] shall sign a registry when delivering the ballot to the polling place or the election administrator's office. In addition to the signature requirement, the individual collecting and conveying the ballot must provide the following information:

- (1) the individual's name, address, and phone number;
- (2) the voter's name and address; and
- (3) the individual's relationship to the voter required to collect and convey a ballot pursuant to [section 3(2)(c) through (2)(f)].

Section 5. Penalty. A violation of a provision of [sections 1 through 5] is punishable by a fine of \$500 for each ballot unlawfully collected.

Section 6. Codification instruction. [Sections 1 through 5] are intended to be codified as an integral part of Title 13, chapter 35, and the provisions of Title 13, chapter 35, apply to [sections 1 through 5].

Section 7. Effective date. [This act] is effective upon approval by the electorate.

Section 8. Submission to electorate. [This act] shall be submitted to the qualified electors of Montana at the general election to be held in November 2018 by printing on the ballot the full title of [this act] and the following:

Legislative Referendum No. 129 was approved by the following vote at the General Election held November 6, 2018:

For:	301,172
Against:	178,324

TABLES

Code Sections Affected
Session Laws Affected
Senate Bill to Chapter Number
House Bill to Chapter Number
Chapter Number to Bill Number
Effective Dates by Chapter Number
Effective Dates by Date
Session Law to Code
2018 Ballot Issues to Code
Code Sections to 2018 Ballot Issues

CODE SECTIONS AFFECTED

This table was compiled before the codification process was completed. It does not reflect certain sections affected by name change amendments. It does reflect all other substantive changes. Those sections for which renumbering is not attributed to a particular chapter and bill number were renumbered by the Code Commissioner under the authority of 1-11-204(3)(a)(ii), MCA.

<u>Title-Chapter-Section</u>	<u>Action</u>	<u>Chapter No.</u>	<u>Bill No.</u>
1-1-232	enacted	Ch. 118	HB 137
1-4-111	enacted	Ch. 136	HB 229
1-4-112	enacted	Ch. 136	HB 229
1-5-602	amended	Ch. 123	HB 370
1-5-603	amended	Ch. 123	HB 370
1-5-609	amended	Ch. 123	HB 370
1-5-610	amended	Ch. 123	HB 370
1-5-615	amended	Ch. 123	HB 370
1-5-616	amended	Ch. 123	HB 370
1-5-617	amended	Ch. 123	HB 370
1-5-618	amended	Ch. 123	HB 370
1-5-619	amended	Ch. 123	HB 370
1-5-620	amended	Ch. 123	HB 370
1-5-621	amended	Ch. 123	HB 370
1-5-622	amended	Ch. 123	HB 370
1-5-623	amended	Ch. 123	HB 370
1-5-624	amended	Ch. 123	HB 370
1-5-625	amended	Ch. 123	HB 370
1-5-626	amended	Ch. 123	HB 370
1-5-627	amended	Ch. 123	HB 370
1-5-628	amended	Ch. 123	HB 370
1-5-629	enacted	Ch. 123	HB 370
1-5-630	enacted	Ch. 123	HB 370
1-5-631	enacted	Ch. 123	HB 370
1-5-632	enacted	Ch. 123	HB 370
2-2-102	amended	Ch. 156	SB 150
2-2-121	amended	Ch. 156	SB 150
2-2-136	amended	Ch. 156	SB 150
2-2-140	enacted	Ch. 156	SB 150
2-4-102	amended	Ch. 100	SB 72
	amended	Ch. 144	SB 1
2-4-305	amended	Ch. 100	SB 72
2-6-1017	amended	Ch. 51	SB 77
	amended	Ch. 147	SB 46
2-7-504	amended	Ch. 73	SB 2
2-7-505	amended	Ch. 185	HB 319
2-7-515	amended	Ch. 268	SB 302
2-7-523	enacted	Ch. 268	SB 302
2-7-524	enacted	Ch. 268	SB 302
2-9-211	amended	Ch. 48	SB 39
2-9-303	amended	Ch. 188	HB 343
2-15-156	enacted	Ch. 285	HB 776
2-15-1019	amended	Ch. 242	SB 351
2-15-1508	amended	Ch. 285	HB 776
2-15-1524	repealed	Ch. 300	SB 60
2-15-1704	amended	Ch. 240	SB 305
2-15-1731	amended	Ch. 220	SB 38

2-15-1745	repealed	Ch. 293	SB 267
2-15-1820	repealed	Ch. 471	HB 558
2-15-1821	amended	Ch. 285	HB 776
2-15-1822	amended	Ch. 285	HB 776
2-15-2012	renumbered 44-7-301	Ch. 3	HB 60
2-15-2013	renumbered 44-7-302	Ch. 3	HB 60
2-15-2014	renumbered 44-7-303	Ch. 3	HB 60
2-15-2028	enacted	Ch. 456	HB 684
2-15-2029	amended	Ch. 456	HB 684
2-15-2212	amended	Ch. 403	HB 356
2-15-2511	repealed	Ch. 11	HB 59
2-15-3112	amended	Ch. 306	SB 133
2-15-3308	amended	Ch. 81	HB 58
	amended	Ch. 298	SB 32
2-15-3310	amended	Ch. 239	SB 257
2-17-101	amended	Ch. 401	HB 316
2-17-506	amended	Ch. 425	HB 10
2-17-807	amended	Ch. 164	SB 275
2-17-808	amended	Ch. 164	SB 275
2-18-101	amended	Ch. 456	HB 684
2-18-103	amended	Ch. 61	HB 73
	amended	Ch. 450	HB 612
2-18-303	amended	Ch. 85	HB 175
2-18-402	amended	Ch. 185	HB 319
2-18-412	amended	Ch. 167	SB 295
2-18-501	amended	Ch. 85	HB 175
2-18-601	amended	Ch. 167	SB 295
2-18-617	amended	Ch. 167	SB 295
2-18-618	amended	Ch. 167	SB 295
2-18-621	amended	Ch. 167	SB 295
2-18-623	enacted	Ch. 167	SB 295
2-18-703	amended	Ch. 85	HB 175
3-1-702	amended	Ch. 413	HB 654
3-1-708	amended	Ch. 33	HB 110
3-1-710	amended	Ch. 456	HB 684
3-1-711	amended	Ch. 456	HB 684
3-1-712	repealed	Ch. 456	HB 684
3-5-102	amended	Ch. 3	HB 60
3-5-303	amended	Ch. 430	HB 233
3-6-201	amended	Ch. 318	SB 254
5-1-102	amended	Ch. 285	HB 776
5-2-202	amended	Ch. 168	SB 310
5-2-301	amended	Ch. 443	HB 506
5-5-202	amended	Ch. 163	SB 226
5-5-211	amended	Ch. 163	SB 226
5-5-226	amended	Ch. 163	SB 226
5-5-227	amended	Ch. 163	SB 226
	amended	Ch. 399	HB 723
5-5-228	amended	Ch. 145	SB 3
5-5-233	enacted	Ch. 163	SB 226
5-12-205	amended	Ch. 398	HB 715
5-12-302	amended	Ch. 163	SB 226
5-12-303	amended	Ch. 466	HB 433
5-13-402	amended	Ch. 168	SB 310
5-13-404	enacted	Ch. 453	HB 639
7-1-111 ..	amended (not codified - referendum)	Ch. 218	HB 357

7-1-205	enacted	Ch. 141	HB 326
7-2-4734	amended	Ch. 74	SB 20
7-3-103	amended	Ch. 345	HB 129
7-3-111	amended	Ch. 345	HB 129
7-3-149	amended	Ch. 345	HB 129
7-4-2222	amended	Ch. 94	HB 154
7-4-2631	amended	Ch. 461	HB 126
7-4-2901	amended	Ch. 105	HB 99
7-4-2904	amended	Ch. 105	HB 99
7-4-2905	amended	Ch. 105	HB 99
7-6-609	amended	Ch. 73	SB 2
7-6-611	amended	Ch. 73	SB 2
	amended	Ch. 268	SB 302
7-6-622	enacted	Ch. 256	SB 191
7-6-1501	amended	Ch. 261	SB 241
7-6-1503	amended	Ch. 261	SB 241
7-6-1504	amended	Ch. 261	SB 241
7-6-1541	amended	Ch. 261	SB 241
7-6-1542	amended	Ch. 261	SB 241
7-6-2401	amended	Ch. 53	SB 104
7-6-4037	enacted	Ch. 268	SB 302
7-6-4038	enacted	Ch. 268	SB 302
7-11-1004	enacted	Ch. 97	HB 259
7-12-2171	amended	Ch. 107	HB 299
7-12-4203	amended	Ch. 107	HB 299
7-12-4307	amended	Ch. 159	SB 163
7-12-4308	amended	Ch. 159	SB 163
7-12-4311	amended	Ch. 159	SB 163
7-12-4353	amended	Ch. 159	SB 163
7-12-4422	amended	Ch. 139	SB 243
7-12-4429	amended	Ch. 139	SB 243
7-13-121	amended	Ch. 42	HB 123
7-13-2341	amended	Ch. 435	HB 324
7-13-4108	enacted	Ch. 187	HB 331
7-15-4282	amended	Ch. 3	HB 60
7-15-4286	amended	Ch. 3	HB 60
	amended	Ch. 270	SB 321
7-15-4291	amended	Ch. 270	SB 321
7-22-2101	amended	Ch. 92	HB 142
7-22-2109	amended	Ch. 92	HB 142
7-22-2121	amended	Ch. 92	HB 142
7-22-2142	amended	Ch. 92	HB 142
7-32-240	amended	Ch. 140	HB 98
7-32-303	amended	Ch. 140	HB 98
7-32-2133	enacted	Ch. 120	HB 164
7-32-2256	enacted	Ch. 101	SB 85
7-33-1901	enacted	Ch. 310	SB 171
7-33-1902	enacted	Ch. 310	SB 171
7-33-1903	enacted	Ch. 310	SB 171
7-33-1904	enacted	Ch. 310	SB 171
7-33-2101	amended	Ch. 74	SB 20
7-33-2102	amended	Ch. 74	SB 20
7-33-2104	amended	Ch. 74	SB 20
7-33-2120	amended	Ch. 74	SB 20
7-33-2125	amended	Ch. 74	SB 20
7-33-2128	amended	Ch. 74	SB 20

7-33-4101	amended	Ch. 74	SB 20
7-33-4107	amended	Ch. 291	SB 192
	amended	Ch. 310	SB 171
7-33-4115	enacted	Ch. 74	SB 20
7-33-4510	amended	Ch. 220	SB 38
7-34-102	amended	Ch. 220	SB 38
7-34-103	amended	Ch. 220	SB 38
10-1-104	amended	Ch. 150	SB 98
10-1-108	amended	Ch. 149	SB 89
10-1-207	repealed	Ch. 183	HB 297
10-1-503	repealed	Ch. 183	HB 297
10-1-505	amended	Ch. 184	HB 305
10-1-1402	amended	Ch. 233	SB 197
	amended	Ch. 344	HB 111
10-2-111	amended	Ch. 49	SB 63
10-2-112	amended	Ch. 343	HB 52
10-2-115	amended	Ch. 462	HB 172
10-2-116	enacted	Ch. 462	HB 172
10-2-118	amended	Ch. 173	HB 158
10-2-416	amended	Ch. 393	HB 669
10-2-603	amended	Ch. 343	HB 52
10-3-302	amended	Ch. 252	SB 90
10-3-303	amended	Ch. 252	SB 90
10-3-312	amended	Ch. 398	HB 715
10-3-801	amended	Ch. 343	HB 52
10-3-802	enacted	Ch. 477	HB 676
10-4-101	amended	Ch. 172	HB 150
	amended	Ch. 271	SB 325
10-4-103	amended	Ch. 172	HB 150
10-4-105	amended	Ch. 172	HB 150
10-4-107	amended	Ch. 172	HB 150
10-4-108	amended	Ch. 172	HB 150
10-4-109	amended	Ch. 172	HB 150
10-4-304	amended	Ch. 172	HB 150
10-4-305	amended	Ch. 172	HB 150
10-4-306	amended	Ch. 172	HB 150
10-4-307	repealed	Ch. 172	HB 150
10-4-308	amended	Ch. 172	HB 150
10-4-309	amended	Ch. 172	HB 150
10-4-314	amended	Ch. 172	HB 150
10-4-315	amended	Ch. 172	HB 150
13-1-101	amended	Ch. 325	SB 291
	amended	Ch. 337	SB 363
13-2-304	amended	Ch. 155	SB 148
13-3-105	amended	Ch. 314	SB 232
13-3-208	enacted	Ch. 325	SB 291
13-10-201	amended	Ch. 141	HB 326
13-10-211	amended	Ch. 141	HB 326
13-10-602	amended	Ch. 345	HB 129
13-10-605	enacted	Ch. 337	SB 363
13-12-202	amended	Ch. 325	SB 291
13-13-112	amended	Ch. 135	HB 166
13-13-214	amended	Ch. 151	SB 101
13-13-232	amended	Ch. 229	SB 162
13-13-241	amended	Ch. 151	SB 101
	amended	Ch. 229	SB 162

13-14-112	amended	Ch. 141	HB 326
13-14-113	amended	Ch. 141	HB 326
13-15-101	amended	Ch. 229	SB 162
13-15-104	amended	Ch. 229	SB 162
13-15-105	amended	Ch. 229	SB 162
13-15-207	amended	Ch. 229	SB 162
13-17-103	amended	Ch. 325	SB 291
13-19-106	amended	Ch. 229	SB 162
13-19-205	amended	Ch. 151	SB 101
13-19-312	amended	Ch. 229	SB 162
13-21-102	amended	Ch. 226	SB 124
13-21-104	amended	Ch. 226	SB 124
13-21-106	amended	Ch. 226	SB 124
13-21-107	enacted	Ch. 226	SB 124
13-25-203	amended	Ch. 146	SB 14
13-25-206	enacted	Ch. 146	SB 14
13-27-402	amended	Ch. 237	SB 231
13-35-225	amended	Ch. 212	SB 154
	amended	Ch. 319	SB 258
13-35-241	enacted	Ch. 229	SB 162
13-35-704	amended	Ch. 229	SB 162
13-37-121	amended	Ch. 337	SB 363
13-37-128	amended	Ch. 330	SB 326
13-37-208	amended	Ch. 429	HB 181
13-37-215	repealed	Ch. 152	SB 115
	amended	Ch. 429	HB 181
13-37-225	amended	Ch. 429	HB 181
13-37-226	amended	Ch. 429	HB 181
13-37-228	amended	Ch. 429	HB 181
13-37-501	enacted	Ch. 330	SB 326
13-37-502	enacted	Ch. 330	SB 326
13-37-503	enacted	Ch. 330	SB 326
13-37-601	enacted	Ch. 337	SB 363
13-37-602	enacted	Ch. 337	SB 363
13-37-603	enacted	Ch. 337	SB 363
13-37-604	enacted	Ch. 337	SB 363
13-37-605	enacted	Ch. 337	SB 363
13-37-606	enacted	Ch. 337	SB 363
13-37-607	enacted	Ch. 337	SB 363
13-38-105	amended	Ch. 198	HB 318
13-38-106	enacted	Ch. 198	HB 318
13-38-107	enacted	Ch. 198	HB 318
13-38-202	amended	Ch. 198	HB 318
15-1-119	enacted	Ch. 257	SB 200
15-1-121	amended	Ch. 3	HB 60
	amended	Ch. 268	SB 302
15-1-122	amended	Ch. 201	HB 520
	amended	Ch. 343	HB 52
15-1-123	amended	Ch. 3	HB 60
15-1-230	amended	Ch. 163	SB 226
15-1-402	amended	Ch. 3	HB 60
	amended	Ch. 452	HB 636
15-6-162	amended	Ch. 383	HB 507
15-6-219	amended	Ch. 230	SB 165
15-6-220	amended	Ch. 290	SB 178
15-6-221	amended	Ch. 446	HB 527

15-6-232	amended	Ch. 163	SB 226
15-6-241	enacted	Ch. 258	SB 204
15-6-242	enacted	Ch. 230	SB 165
15-7-102	amended	Ch. 444	HB 514
15-7-111	amended	Ch. 163	SB 226
15-7-201	amended	Ch. 169	HB 24
15-7-202	amended	Ch. 224	SB 69
15-7-206	amended	Ch. 224	SB 69
15-10-420	amended	Ch. 3	HB 60
	amended	Ch. 332	SB 334
15-15-201	amended	Ch. 335	SB 346
15-17-121	amended	Ch. 317	SB 253
15-17-323	amended	Ch. 70	HB 201
15-18-112	amended	Ch. 317	SB 253
15-18-211	amended	Ch. 317	SB 253
15-18-212	amended	Ch. 317	SB 253
15-18-213	amended	Ch. 317	SB 253
15-18-214	amended	Ch. 317	SB 253
15-18-215	amended	Ch. 317	SB 253
15-18-216	amended	Ch. 317	SB 253
15-18-217	amended	Ch. 317	SB 253
15-18-219	enacted	Ch. 317	SB 253
15-18-220	enacted	Ch. 317	SB 253
15-18-221	enacted	Ch. 317	SB 253
15-18-411	amended	Ch. 317	SB 253
15-18-412	amended	Ch. 317	SB 253
15-18-413	amended	Ch. 317	SB 253
15-23-703	amended	Ch. 331	SB 328
	amended	Ch. 355	HB 403
15-23-715	amended	Ch. 331	SB 328
15-24-202	amended	Ch. 36	HB 200
15-24-206	amended	Ch. 36	HB 200
15-24-208	amended	Ch. 36	HB 200
15-24-210	amended	Ch. 36	HB 200
15-24-211	amended	Ch. 36	HB 200
15-24-922	amended	Ch. 15	HB 101
15-24-1401	amended	Ch. 269	SB 318
15-24-1402	amended	Ch. 269	SB 318
15-24-1410	amended	Ch. 3	HB 60
15-24-1701	amended	Ch. 189	HB 386
15-24-3211	amended	Ch. 163	SB 226
15-30-2110	amended	Ch. 30	HB 88
	amended	Ch. 347	HB 211
15-30-2303	enacted	Ch. 399	HB 723
15-30-2358	repealed	Ch. 399	HB 723
15-30-2365	repealed	Ch. 399	HB 723
15-30-2393	enacted	Ch. 115	SB 207
15-30-2618	amended	Ch. 415	HB 658
15-30-2641	repealed	Ch. 28	HB 72
15-30-2643	amended	Ch. 28	HB 72
15-30-2660	amended	Ch. 415	HB 658
15-30-3112	amended	Ch. 163	SB 226
15-30-3313	amended	Ch. 3	HB 60
15-31-103	amended	Ch. 271	SB 325
15-31-133	repealed	Ch. 399	HB 723
15-31-150	repealed	Ch. 399	HB 723

15-31-322	amended	Ch. 163	SB 226
15-31-511	amended	Ch. 415	HB 658
15-31-552	amended	Ch. 117	HB 85
	amended	Ch. 271	SB 325
15-31-553	amended	Ch. 117	HB 85
15-31-1001	enacted	Ch. 352	HB 293
15-31-1002	enacted	Ch. 352	HB 293
15-31-1003	enacted	Ch. 352	HB 293
15-31-1004	enacted	Ch. 352	HB 293
15-31-1005	enacted	Ch. 352	HB 293
15-31-1006	enacted	Ch. 352	HB 293
15-31-1007	enacted	Ch. 352	HB 293
15-31-1008	enacted	Ch. 352	HB 293
15-31-1009	enacted	Ch. 352	HB 293
15-31-1010	enacted	Ch. 352	HB 293
15-31-1011	enacted	Ch. 352	HB 293
15-31-1012	enacted	Ch. 352	HB 293
15-32-402	amended	Ch. 333	SB 337
15-32-703	amended	Ch. 163	SB 226
15-35-108	amended	Ch. 343	HB 52
	amended (void - sec. 14, Ch. 439)	Ch. 439	HB 431
	amended	Ch. 464	HB 292
	amended	Ch. 469	HB 553
15-36-304	amended	Ch. 8	SB 28
	amended	Ch. 71	HB 213
	amended	Ch. 414	HB 656
15-36-331	amended	Ch. 3	HB 60
	amended	Ch. 414	HB 656
15-36-332	amended	Ch. 414	HB 656
15-38-106	amended	Ch. 334	SB 343
15-38-113	amended	Ch. 334	SB 343
15-39-110	amended	Ch. 3	HB 60
15-62-103	amended	Ch. 108	HB 320
15-62-210	enacted	Ch. 108	HB 320
15-64-102	amended	Ch. 292	SB 265
15-64-1001	enacted	Ch. 413	HB 654
15-64-1002	enacted	Ch. 413	HB 654
15-65-121	amended	Ch. 356	HB 411
	amended	Ch. 459	SB 338
15-66-101	amended	Ch. 415	HB 658
15-66-102	amended	Ch. 415	HB 658
15-66-103	amended	Ch. 415	HB 658
15-66-201	amended	Ch. 415	HB 658
15-66-202	amended	Ch. 415	HB 658
15-66-203	amended	Ch. 415	HB 658
15-66-204	amended	Ch. 415	HB 658
15-66-205	amended	Ch. 415	HB 658
15-68-102	amended	Ch. 459	SB 338
15-68-510	amended	Ch. 459	SB 338
15-68-820	amended	Ch. 459	SB 338
15-70-102	amended	Ch. 299	SB 51
15-70-403	amended	Ch. 428	HB 39
	amended	Ch. 455	HB 661
15-70-410	amended	Ch. 455	HB 661
15-70-425	amended	Ch. 455	HB 661
15-70-430	amended	Ch. 91	SB 137

15-70-432	amended	Ch. 455	HB 661
15-70-433	amended	Ch. 163	SB 226
15-70-441	amended	Ch. 3	HB 60
	amended	Ch. 428	HB 39
15-70-450	amended	Ch. 163	SB 226
15-72-601	amended	Ch. 356	HB 411
16-1-106	amended	Ch. 479	HB 727
16-1-411	amended	Ch. 29	HB 84
16-3-411	amended	Ch. 29	HB 84
16-4-105	amended	Ch. 342	HB 35
16-4-201	amended	Ch. 342	HB 35
	amended	Ch. 473	HB 613
16-4-202	repealed	Ch. 336	SB 358
16-4-203	amended	Ch. 336	SB 358
16-4-204	amended	Ch. 342	HB 35
16-4-205	amended	Ch. 336	SB 358
16-4-207	amended	Ch. 342	HB 35
	amended	Ch. 479	HB 727
16-4-210	amended	Ch. 336	SB 358
16-4-211	enacted	Ch. 336	SB 358
16-4-212	enacted	Ch. 336	SB 358
16-4-213	enacted	Ch. 336	SB 358
16-4-305	amended	Ch. 342	HB 35
16-4-306	amended	Ch. 342	HB 35
16-4-310	amended	Ch. 160	SB 182
16-4-315	enacted	Ch. 473	HB 613
16-4-401	amended	Ch. 336	SB 358
16-4-402	amended	Ch. 336	SB 358
	amended	Ch. 342	HB 35
	amended	Ch. 479	HB 727
16-4-405	amended	Ch. 479	HB 727
16-4-406	amended	Ch. 479	HB 727
16-4-417	enacted	Ch. 479	HB 727
16-4-418	enacted	Ch. 479	HB 727
16-4-420	amended	Ch. 342	HB 35
	amended	Ch. 479	HB 727
16-4-430	enacted	Ch. 342	HB 35
16-4-501	amended	Ch. 336	SB 358
	amended	Ch. 473	HB 613
16-4-1005	amended	Ch. 336	SB 358
16-4-1102	amended	Ch. 29	HB 84
16-6-103	amended	Ch. 153	SB 119
16-11-102	amended	Ch. 3	HB 60
16-11-119	amended	Ch. 469	HB 553
17-1-701	enacted	Ch. 359	HB 428
17-1-702	enacted	Ch. 359	HB 428
17-2-102	amended	Ch. 185	HB 319
17-2-105	amended	Ch. 185	HB 319
17-2-107	amended	Ch. 3	HB 60
17-2-202	amended	Ch. 185	HB 319
17-5-205	amended	Ch. 176	HB 234
17-5-802	amended	Ch. 469	HB 553
17-5-903	amended	Ch. 299	SB 51
17-5-1604	amended	Ch. 359	HB 428
17-6-103	amended	Ch. 45	HB 163
17-6-302	amended	Ch. 245	HB 476

17-6-308	amended	Ch. 190	HB 422
	amended	Ch. 245	HB 476
	amended	Ch. 460	HB 16
17-6-311	amended	Ch. 245	HB 476
17-6-316	amended	Ch. 359	HB 428
17-6-317	amended	Ch. 245	HB 476
17-6-345	amended	Ch. 191	HB 444
17-7-111	amended	Ch. 469	HB 553
17-7-112	amended	Ch. 168	SB 310
17-7-130	amended	Ch. 398	HB 715
17-7-140	amended	Ch. 163	SB 226
	amended	Ch. 398	HB 715
17-7-201	amended	Ch. 469	HB 553
17-7-202	amended	Ch. 469	HB 553
17-7-203	amended	Ch. 469	HB 553
17-7-204	amended	Ch. 469	HB 553
17-7-205	amended and renumbered 17-7-221	Ch. 469	HB 553
17-7-206	repealed	Ch. 469	HB 553
17-7-208	enacted	Ch. 469	HB 553
17-7-209	enacted	Ch. 469	HB 553
17-7-210	enacted	Ch. 469	HB 553
17-7-221	formerly 17-7-205	Ch. 469	HB 553
17-7-222	enacted	Ch. 469	HB 553
17-7-223	enacted	Ch. 469	HB 553
17-7-224	enacted	Ch. 469	HB 553
17-7-301	amended	Ch. 393	HB 669
	amended	Ch. 415	HB 658
17-7-304	amended	Ch. 453	HB 639
17-7-311	amended	Ch. 393	HB 669
	amended	Ch. 415	HB 658
17-7-502	amended	Ch. 343	HB 52
	amended	Ch. 352	HB 293
	amended	Ch. 354	HB 376
	amended	Ch. 376	HB 34
	amended	Ch. 415	HB 658
	amended	Ch. 434	HB 291
	amended	Ch. 453	HB 639
	amended	Ch. 455	HB 661
	amended	Ch. 465	HB 341
	amended	Ch. 477	HB 676
17-8-101	amended	Ch. 185	HB 319
18-2-101	amended	Ch. 3	HB 60
18-2-103	amended	Ch. 3	HB 60
18-3-101	amended	Ch. 202	HB 586
18-4-132	amended	Ch. 431	HB 260
18-7-101	amended	Ch. 292	SB 265
19-20-101	amended	Ch. 276	HB 204
19-20-208	amended	Ch. 276	HB 204
19-20-303	amended	Ch. 276	HB 204
19-20-304	repealed	Ch. 276	HB 204
19-20-503	amended	Ch. 276	HB 204
19-20-603	amended	Ch. 276	HB 204
19-20-607	amended	Ch. 276	HB 204
19-20-702	amended	Ch. 276	HB 204
19-20-706	amended	Ch. 276	HB 204
19-20-717	repealed	Ch. 276	HB 204

19-20-721	repealed	Ch. 276	HB 204
19-20-722	enacted	Ch. 276	HB 204
19-20-732	amended	Ch. 307	SB 139
19-20-801	amended	Ch. 276	HB 204
19-20-810	amended	Ch. 276	HB 204
19-20-1001	amended	Ch. 276	HB 204
19-20-1002	amended	Ch. 276	HB 204
19-20-1005	enacted	Ch. 276	HB 204
19-20-1006	enacted	Ch. 276	HB 204
19-20-1007	enacted	Ch. 276	HB 204
19-20-1008	enacted	Ch. 276	HB 204
19-20-1009	enacted	Ch. 276	HB 204
19-20-1013	enacted	Ch. 276	HB 204
19-20-1212	amended	Ch. 276	HB 204
19-21-202	amended	Ch. 276	HB 204
20-1-101	amended	Ch. 16	SB 11
20-1-220	amended	Ch. 357	HB 413
20-1-225	amended	Ch. 300	SB 60
20-1-401	amended	Ch. 248	SB 35
20-3-321	amended	Ch. 154	SB 130
20-3-324	amended	Ch. 75	SB 58
20-3-361	amended	Ch. 9	SB 16
20-3-362	amended	Ch. 9	SB 16
20-4-134	amended	Ch. 347	HB 211
20-4-501	amended	Ch. 347	HB 211
20-4-502	amended	Ch. 347	HB 211
20-4-503	amended	Ch. 347	HB 211
20-4-504	amended	Ch. 347	HB 211
20-4-505	amended	Ch. 347	HB 211
20-4-506	repealed	Ch. 347	HB 211
20-5-101	amended	Ch. 16	SB 11
20-5-320	amended	Ch. 271	SB 325
20-7-104	amended	Ch. 12	HB 61
	amended	Ch. 196	HB 619
20-7-305	amended	Ch. 392	HB 662
20-7-306	amended	Ch. 3	HB 60
20-7-411	amended	Ch. 16	SB 11
20-7-435	amended	Ch. 142	HB 388
20-7-457	amended	Ch. 9	SB 16
20-7-469	enacted	Ch. 227	SB 140
20-7-701	amended	Ch. 279	HB 387
20-7-904	amended	Ch. 93	HB 153
20-7-1315	amended	Ch. 220	SB 38
20-7-1317	enacted	Ch. 250	SB 40
20-7-1321	enacted	Ch. 305	SB 132
20-7-1322	enacted	Ch. 305	SB 132
20-7-1323	enacted	Ch. 369	HB 745
20-7-1324	enacted	Ch. 369	HB 745
20-7-1325	enacted	Ch. 369	HB 745
20-7-1326	enacted	Ch. 369	HB 745
20-7-1501	enacted	Ch. 279	HB 387
20-7-1502	enacted	Ch. 279	HB 387
20-7-1503	enacted	Ch. 279	HB 387
20-7-1506	enacted	Ch. 279	HB 387
20-7-1601	enacted	Ch. 402	HB 351
20-7-1602	enacted	Ch. 402	HB 351

20-9-104	amended	Ch. 270	SB 321
20-9-116	amended	Ch. 402	HB 351
20-9-141	amended	Ch. 128	SB 9
	amended	Ch. 270	SB 321
20-9-201	amended	Ch. 185	HB 319
20-9-235	amended	Ch. 166	SB 292
20-9-236	amended	Ch. 253	SB 92
20-9-306	amended	Ch. 24	HB 159
20-9-308	amended	Ch. 128	SB 9
20-9-314	amended	Ch. 128	SB 9
20-9-321	amended	Ch. 9	SB 16
20-9-327	amended	Ch. 344	HB 111
20-9-344	amended	Ch. 66	HB 127
20-9-410	amended	Ch. 137	HB 237
20-9-440	amended	Ch. 166	SB 292
20-9-471	amended	Ch. 96	HB 247
20-9-502	amended	Ch. 3	HB 60
	amended	Ch. 253	SB 92
20-9-517	repealed	Ch. 247	SB 12
20-9-518	repealed	Ch. 247	SB 12
20-9-520	repealed	Ch. 247	SB 12
20-9-525	amended	Ch. 10	SB 10
	amended	Ch. 96	HB 247
	amended	Ch. 253	SB 92
20-9-604	amended	Ch. 409	HB 576
20-9-635	amended	Ch. 24	HB 159
20-9-640	amended	Ch. 475	HB 643
20-10-145	amended	Ch. 166	SB 292
20-15-204	amended	Ch. 69	HB 176
20-15-209	amended	Ch. 69	HB 176
20-15-310	amended	Ch. 175	HB 212
20-20-416	amended	Ch. 154	SB 130
20-25-211	amended	Ch. 3	HB 60
20-25-212	amended	Ch. 3	HB 60
20-25-428	amended	Ch. 161	SB 212
20-25-811	enacted	Ch. 418	HB 716
20-26-101	amended	Ch. 300	SB 60
20-26-102	amended	Ch. 300	SB 60
20-26-103	amended	Ch. 300	SB 60
20-26-104	amended	Ch. 300	SB 60
20-26-105	enacted	Ch. 300	SB 60
20-26-201	amended	Ch. 300	SB 60
20-26-202	amended	Ch. 300	SB 60
20-26-203	amended	Ch. 300	SB 60
20-26-601	repealed	Ch. 300	SB 60
20-26-602	repealed	Ch. 300	SB 60
20-26-603	amended	Ch. 300	SB 60
20-26-604	repealed	Ch. 300	SB 60
20-26-605	repealed	Ch. 300	SB 60
20-26-606	amended	Ch. 300	SB 60
20-26-614	amended	Ch. 300	SB 60
20-26-616	amended	Ch. 300	SB 60
20-26-617	amended	Ch. 300	SB 60
22-1-203	enacted	Ch. 451	HB 633
22-2-601	amended	Ch. 281	HB 524
22-2-602	amended	Ch. 281	HB 524

22-3-1301	enacted	Ch. 459	SB 338
22-3-1302	enacted	Ch. 459	SB 338
22-3-1303	enacted	Ch. 459	SB 338
22-3-1304	enacted	Ch. 459	SB 338
22-3-1305	enacted	Ch. 459	SB 338
22-3-1306	enacted	Ch. 459	SB 338
22-3-1307	enacted	Ch. 459	SB 338
23-1-105	amended	Ch. 406	HB 423
23-1-111	amended	Ch. 127	HB 436
	amended	Ch. 282	HB 585
23-1-116	amended	Ch. 207	SB 70
23-1-118	amended	Ch. 207	SB 70
23-2-101	amended	Ch. 353	HB 355
23-2-102	amended	Ch. 353	HB 355
23-2-103	amended	Ch. 353	HB 355
23-2-108	enacted	Ch. 219	SB 24
23-2-109	enacted	Ch. 219	SB 24
23-2-110	enacted	Ch. 353	HB 355
23-2-111	enacted	Ch. 353	HB 355
23-2-112	enacted	Ch. 353	HB 355
23-2-113	enacted	Ch. 353	HB 355
23-2-541	enacted	Ch. 356	HB 411
23-2-615	amended	Ch. 353	HB 355
23-2-636	amended	Ch. 353	HB 355
23-2-814	amended	Ch. 353	HB 355
23-2-821	amended	Ch. 299	SB 51
23-2-825	enacted	Ch. 177	HB 243
23-3-301	repealed	Ch. 51	SB 77
23-3-402	repealed	Ch. 51	SB 77
23-3-404	repealed	Ch. 51	SB 77
23-3-405	repealed	Ch. 51	SB 77
23-3-501	repealed	Ch. 51	SB 77
23-3-503	repealed	Ch. 51	SB 77
23-3-603	repealed	Ch. 51	SB 77
23-3-611	repealed	Ch. 51	SB 77
23-4-101	amended	Ch. 232	SB 183
23-4-110	enacted	Ch. 232	SB 183
23-5-112	amended	Ch. 57	SB 25
	amended	Ch. 284	HB 725
23-5-117	amended	Ch. 479	HB 727
23-5-119	amended	Ch. 336	SB 358
	amended	Ch. 342	HB 35
23-5-152	amended	Ch. 57	SB 25
23-5-153	amended	Ch. 57	SB 25
23-5-160	amended	Ch. 109	HB 368
23-5-177	amended	Ch. 479	HB 727
23-5-405	amended	Ch. 57	SB 25
23-5-419	enacted	Ch. 57	SB 25
23-5-502	amended	Ch. 57	SB 25
23-5-503	amended	Ch. 57	SB 25
23-5-628	amended	Ch. 153	SB 119
23-5-806	repealed	Ch. 284	HB 725
23-7-101	amended	Ch. 284	HB 725
23-7-102	amended	Ch. 284	HB 725
23-7-103	amended	Ch. 284	HB 725
23-7-104	enacted	Ch. 284	HB 725

23-7-110	amended	Ch. 284	HB 725
23-7-201	amended	Ch. 284	HB 725
23-7-202	amended	Ch. 284	HB 725
23-7-210	amended	Ch. 284	HB 725
23-7-211	amended	Ch. 284	HB 725
23-7-212	amended	Ch. 284	HB 725
23-7-301	amended	Ch. 284	HB 725
23-7-302	amended	Ch. 284	HB 725
23-7-305	amended	Ch. 284	HB 725
23-7-306	amended	Ch. 284	HB 725
23-7-307	amended	Ch. 284	HB 725
23-7-310	amended	Ch. 284	HB 725
23-7-311	amended	Ch. 284	HB 725
23-7-312	amended	Ch. 284	HB 725
23-7-401	amended	Ch. 284	HB 725
23-7-402	amended	Ch. 284	HB 725
	amended	Ch. 300	SB 60
23-7-411	amended	Ch. 284	HB 725
25-13-608	amended	Ch. 162	SB 223
26-1-608	amended	Ch. 213	SB 213
26-2-506	amended	Ch. 205	SB 26
27-1-434	amended	Ch. 328	SB 320
27-1-724	amended	Ch. 299	SB 51
27-1-754	amended	Ch. 63	HB 94
27-2-204	amended	Ch. 367	HB 640
27-2-216	amended	Ch. 367	HB 640
27-2-217	repealed	Ch. 367	HB 640
27-6-207	amended	Ch. 264	SB 285
27-12-207	amended	Ch. 165	SB 288
27-17-205	amended	Ch. 389	HB 615
27-17-304	amended	Ch. 389	HB 615
27-17-311	enacted	Ch. 389	HB 615
30-10-105	amended	Ch. 104	HB 90
	amended	Ch. 386	HB 584
30-10-209	amended	Ch. 396	HB 694
30-10-324	amended	Ch. 104	HB 90
30-11-701	amended	Ch. 283	HB 617
30-11-702	amended	Ch. 283	HB 617
30-11-703	amended	Ch. 283	HB 617
30-11-705	amended	Ch. 283	HB 617
30-11-712	amended	Ch. 283	HB 617
30-11-713	amended	Ch. 283	HB 617
30-11-717	enacted	Ch. 283	HB 617
30-11-718	enacted	Ch. 283	HB 617
30-11-719	enacted	Ch. 283	HB 617
30-13-202	amended	Ch. 271	SB 325
30-13-219	enacted	Ch. 198	HB 318
30-13-342	enacted	Ch. 198	HB 318
30-14-1001	repealed	Ch. 294	SB 269
30-14-1002	repealed	Ch. 294	SB 269
30-14-1003	repealed	Ch. 294	SB 269
30-14-1004	renumbered 39-9-213	Ch. 294	SB 269
30-14-1005	repealed	Ch. 294	SB 269
30-17-101	amended	Ch. 147	SB 46
30-20-204	amended	Ch. 3	HB 60
32-1-109	amended	Ch. 75	SB 58

32-1-112	amended	Ch. 271	SB 325
32-1-115	amended	Ch. 75	SB 58
32-1-202	amended	Ch. 75	SB 58
32-1-204	amended	Ch. 75	SB 58
32-1-211	amended	Ch. 75	SB 58
32-1-212	amended	Ch. 75	SB 58
32-1-221	enacted	Ch. 75	SB 58
32-1-222	enacted	Ch. 75	SB 58
32-1-232	amended	Ch. 75	SB 58
32-1-234	amended	Ch. 68	HB 162
	amended	Ch. 75	SB 58
32-1-301	amended	Ch. 271	SB 325
32-1-308	amended	Ch. 75	SB 58
32-1-325	amended	Ch. 75	SB 58
32-1-339	amended	Ch. 271	SB 325
32-1-370	amended	Ch. 75	SB 58
32-1-371	amended	Ch. 75	SB 58
32-1-372	amended	Ch. 75	SB 58
32-1-374	amended	Ch. 75	SB 58
32-1-378	enacted	Ch. 75	SB 58
32-1-379	enacted	Ch. 75	SB 58
32-1-380	enacted	Ch. 75	SB 58
32-1-381	repealed	Ch. 75	SB 58
32-1-383	repealed	Ch. 75	SB 58
32-1-384	amended	Ch. 75	SB 58
32-1-422	amended	Ch. 75	SB 58
	amended	Ch. 271	SB 325
32-1-452	amended	Ch. 75	SB 58
32-1-468	amended	Ch. 75	SB 58
32-1-506	amended	Ch. 75	SB 58
32-1-532	amended	Ch. 75	SB 58
32-1-911	amended	Ch. 75	SB 58
32-1-1501	enacted	Ch. 241	SB 311
32-1-1502	enacted	Ch. 241	SB 311
32-1-1503	enacted	Ch. 241	SB 311
32-1-1504	enacted	Ch. 241	SB 311
32-3-106	amended	Ch. 75	SB 58
32-3-207	amended	Ch. 68	HB 162
32-3-611	amended	Ch. 3	HB 60
32-3-1003	enacted	Ch. 480	HB 731
32-3-1004	enacted	Ch. 480	HB 731
32-3-1005	enacted	Ch. 480	HB 731
32-3-1008	enacted	Ch. 480	HB 731
32-3-1009	enacted	Ch. 480	HB 731
32-3-1013	enacted	Ch. 480	HB 731
32-6-103	amended	Ch. 75	SB 58
32-7-115	amended	Ch. 32	HB 108
32-7-124	amended	Ch. 32	HB 108
32-9-103	amended	Ch. 65	HB 107
32-9-120	amended	Ch. 65	HB 107
32-9-122	amended	Ch. 65	HB 107
32-9-123	amended	Ch. 65	HB 107
32-9-128	amended	Ch. 65	HB 107
32-9-130	amended	Ch. 65	HB 107
32-9-133	amended	Ch. 65	HB 107
32-9-141	amended	Ch. 65	HB 107

32-9-149	amended	Ch. 65	HB 107
32-9-160	amended	Ch. 65	HB 107
32-9-170	amended	Ch. 65	HB 107
32-9-171	enacted	Ch. 65	HB 107
32-9-172	enacted	Ch. 65	HB 107
33-1-305	amended	Ch. 62	HB 92
33-1-601	repealed	Ch. 60	HB 65
33-1-602	repealed	Ch. 60	HB 65
33-1-603	repealed	Ch. 60	HB 65
	amended	Ch. 62	HB 92
33-1-604	enacted	Ch. 60	HB 65
33-1-605	enacted	Ch. 60	HB 65
33-1-606	enacted	Ch. 60	HB 65
33-1-613	amended	Ch. 60	HB 65
33-1-1302	amended	Ch. 62	HB 92
33-2-104	amended	Ch. 62	HB 92
33-2-115	amended	Ch. 60	HB 65
33-2-301	amended	Ch. 48	SB 39
	amended	Ch. 410	HB 578
33-2-302	amended	Ch. 48	SB 39
33-2-307	amended	Ch. 410	HB 578
33-2-315	amended	Ch. 60	HB 65
33-2-714	enacted	Ch. 415	HB 658
33-2-1106	amended	Ch. 62	HB 92
33-2-1113	amended	Ch. 62	HB 92
33-2-1216	amended	Ch. 60	HB 65
33-2-1701	amended	Ch. 60	HB 65
33-3-103	amended	Ch. 271	SB 325
33-3-105	amended	Ch. 62	HB 92
33-3-201	amended	Ch. 117	HB 85
33-3-202	amended	Ch. 62	HB 92
	amended	Ch. 117	HB 85
33-3-203	amended	Ch. 117	HB 85
33-3-215	amended	Ch. 271	SB 325
33-3-601	amended	Ch. 62	HB 92
	amended	Ch. 271	SB 325
33-3-602	amended	Ch. 271	SB 325
33-3-603	amended	Ch. 271	SB 325
33-4-202	amended	Ch. 117	HB 85
33-4-203	amended	Ch. 117	HB 85
33-4-204	amended	Ch. 117	HB 85
33-6-101	repealed	Ch. 26	HB 66
	amended	Ch. 60	HB 65
33-6-102	amended	Ch. 26	HB 66
33-6-103	amended	Ch. 26	HB 66
33-6-104	repealed	Ch. 26	HB 66
33-6-201	repealed	Ch. 26	HB 66
33-6-301	repealed	Ch. 26	HB 66
33-6-302	repealed	Ch. 26	HB 66
33-6-303	repealed	Ch. 26	HB 66
33-6-304	repealed	Ch. 26	HB 66
33-6-401	repealed	Ch. 26	HB 66
33-6-402	repealed	Ch. 26	HB 66
33-6-403	repealed	Ch. 26	HB 66
33-6-404	repealed	Ch. 26	HB 66
33-6-405	repealed	Ch. 26	HB 66

33-10-202	amended	Ch. 25	HB 64
33-10-205	amended	Ch. 25	HB 64
33-10-210	amended	Ch. 25	HB 64
33-10-215	amended	Ch. 25	HB 64
33-10-216	amended	Ch. 25	HB 64
33-10-224	amended	Ch. 25	HB 64
33-10-227	amended	Ch. 25	HB 64
33-11-103	amended	Ch. 271	SB 325
33-12-104	amended	Ch. 271	SB 325
33-15-403	amended	Ch. 315	SB 240
33-15-1108	amended	Ch. 62	HB 92
33-16-223	amended	Ch. 111	HB 382
33-16-230	amended	Ch. 111	HB 382
33-17-211	amended	Ch. 271	SB 325
33-17-231	amended	Ch. 110	HB 373
33-17-236	amended	Ch. 110	HB 373
33-17-238	amended	Ch. 110	HB 373
33-19-403	amended	Ch. 60	HB 65
33-20-703	repealed	Ch. 26	HB 66
33-20-704	repealed	Ch. 26	HB 66
33-20-705	repealed	Ch. 26	HB 66
33-22-101	amended	Ch. 88	SB 83
	amended	Ch. 215	SB 335
33-22-170	amended	Ch. 88	SB 83
	amended	Ch. 215	SB 335
33-22-172	amended	Ch. 263	SB 270
33-22-175	enacted	Ch. 88	SB 83
33-22-176	enacted	Ch. 88	SB 83
33-22-177	enacted	Ch. 88	SB 83
33-22-180	enacted	Ch. 215	SB 335
33-22-201	amended	Ch. 26	HB 66
33-22-202	amended	Ch. 26	HB 66
33-22-221	amended	Ch. 26	HB 66
33-22-231	repealed	Ch. 26	HB 66
33-22-1301	enacted	Ch. 210	SB 125
33-22-1302	enacted	Ch. 210	SB 125
33-22-1303	enacted	Ch. 210	SB 125
33-22-1306	enacted	Ch. 210	SB 125
33-22-1307	enacted	Ch. 210	SB 125
33-22-1308	enacted	Ch. 210	SB 125
33-22-1309	enacted	Ch. 210	SB 125
33-22-1313	enacted	Ch. 210	SB 125
33-22-1314	enacted	Ch. 210	SB 125
33-22-1315	enacted	Ch. 210	SB 125
33-22-1316	enacted	Ch. 210	SB 125
33-22-1317	enacted	Ch. 210	SB 125
33-22-1320	enacted	Ch. 210	SB 125
33-22-1321	enacted	Ch. 210	SB 125
33-22-1322	enacted	Ch. 210	SB 125
33-28-101	amended	Ch. 223	SB 55
33-28-102	amended	Ch. 60	HB 65
	amended	Ch. 223	SB 55
33-28-104	amended	Ch. 223	SB 55
33-28-105	amended	Ch. 117	HB 85
	amended	Ch. 223	SB 55
33-28-107	amended	Ch. 223	SB 55

33-28-111	amended	Ch. 223	SB 55
33-28-201	amended	Ch. 223	SB 55
33-28-207	amended	Ch. 60	HB 65
	amended	Ch. 223	SB 55
33-28-301	amended	Ch. 223	SB 55
33-28-306	repealed	Ch. 223	SB 55
33-28-401	amended	Ch. 223	SB 55
33-30-102	amended	Ch. 25	HB 64
	amended	Ch. 415	HB 658
33-31-111	amended	Ch. 25	HB 64
	amended	Ch. 60	HB 65
	amended	Ch. 215	SB 335
33-31-201	amended	Ch. 271	SB 325
33-32-101	amended	Ch. 470	HB 555
33-32-102	amended	Ch. 470	HB 555
33-32-106	enacted	Ch. 470	HB 555
33-32-107	enacted	Ch. 470	HB 555
33-32-211	amended	Ch. 470	HB 555
33-32-212	amended	Ch. 470	HB 555
33-32-215	amended	Ch. 470	HB 555
33-32-306	amended	Ch. 62	HB 92
33-32-416	amended	Ch. 31	HB 91
33-32-419	enacted	Ch. 31	HB 91
33-32-421	amended	Ch. 31	HB 91
35-1-112	repealed 6/1/2020	Ch. 271	SB 325
35-1-113	repealed 6/1/2020	Ch. 271	SB 325
35-1-114	repealed 6/1/2020	Ch. 271	SB 325
35-1-115	repealed 6/1/2020	Ch. 271	SB 325
35-1-116	repealed 6/1/2020	Ch. 271	SB 325
35-1-117	repealed 6/1/2020	Ch. 271	SB 325
35-1-118	repealed 6/1/2020	Ch. 271	SB 325
35-1-119	repealed 6/1/2020	Ch. 271	SB 325
35-1-215	repealed 6/1/2020	Ch. 271	SB 325
35-1-216	repealed 6/1/2020	Ch. 271	SB 325
35-1-217	repealed 6/1/2020	Ch. 271	SB 325
35-1-218	repealed 6/1/2020	Ch. 271	SB 325
35-1-219	repealed 6/1/2020	Ch. 271	SB 325
35-1-220	repealed 6/1/2020	Ch. 271	SB 325
35-1-221	repealed 6/1/2020	Ch. 271	SB 325
35-1-222	repealed 6/1/2020	Ch. 271	SB 325
35-1-225	repealed 6/1/2020	Ch. 271	SB 325
35-1-226	repealed 6/1/2020	Ch. 271	SB 325
35-1-227	repealed 6/1/2020	Ch. 271	SB 325
35-1-228	repealed 6/1/2020	Ch. 271	SB 325
35-1-229	repealed 6/1/2020	Ch. 271	SB 325
35-1-230	repealed 6/1/2020	Ch. 271	SB 325
35-1-231	repealed 6/1/2020	Ch. 271	SB 325
35-1-232	repealed 6/1/2020	Ch. 271	SB 325
35-1-233	repealed 6/1/2020	Ch. 271	SB 325
35-1-234	repealed 6/1/2020	Ch. 271	SB 325
35-1-235	repealed 6/1/2020	Ch. 271	SB 325
35-1-236	repealed 6/1/2020	Ch. 271	SB 325
35-1-237	repealed 6/1/2020	Ch. 271	SB 325
35-1-238	repealed 6/1/2020	Ch. 271	SB 325
35-1-239	repealed 6/1/2020	Ch. 271	SB 325
35-1-308	repealed 6/1/2020	Ch. 271	SB 325

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35-1-935	repealed 6/1/2020	Ch. 271	SB 325
35-1-936	repealed 6/1/2020	Ch. 271	SB 325
35-1-937	repealed 6/1/2020	Ch. 271	SB 325
35-1-938	repealed 6/1/2020	Ch. 271	SB 325
35-1-939	repealed 6/1/2020	Ch. 271	SB 325
35-1-940	repealed 6/1/2020	Ch. 271	SB 325
35-1-941	repealed 6/1/2020	Ch. 271	SB 325
35-1-942	repealed 6/1/2020	Ch. 271	SB 325
35-1-943	repealed 6/1/2020	Ch. 271	SB 325
35-1-944	amended	Ch. 117	HB 85
	repealed 6/1/2020	Ch. 271	SB 325
35-1-1026	repealed 6/1/2020	Ch. 271	SB 325
35-1-1027	repealed 6/1/2020	Ch. 271	SB 325
35-1-1028	repealed 6/1/2020	Ch. 271	SB 325
35-1-1029	repealed 6/1/2020	Ch. 271	SB 325
35-1-1030	repealed 6/1/2020	Ch. 271	SB 325
35-1-1031	repealed 6/1/2020	Ch. 271	SB 325
35-1-1037	repealed 6/1/2020	Ch. 271	SB 325
35-1-1038	repealed 6/1/2020	Ch. 271	SB 325
35-1-1039	repealed 6/1/2020	Ch. 271	SB 325
35-1-1040	repealed 6/1/2020	Ch. 271	SB 325
35-1-1104	repealed 6/1/2020	Ch. 271	SB 325
35-1-1106	repealed 6/1/2020	Ch. 271	SB 325
35-1-1107	repealed 6/1/2020	Ch. 271	SB 325
35-1-1108	repealed 6/1/2020	Ch. 271	SB 325
35-1-1109	repealed 6/1/2020	Ch. 271	SB 325
35-1-1110	repealed 6/1/2020	Ch. 271	SB 325
35-1-1111	repealed 6/1/2020	Ch. 271	SB 325
35-1-1206	repealed 6/1/2020	Ch. 271	SB 325
35-1-1307	repealed 6/1/2020	Ch. 271	SB 325
35-1-1308	repealed 6/1/2020	Ch. 271	SB 325
35-1-1309	repealed 6/1/2020	Ch. 271	SB 325
35-1-1310	repealed 6/1/2020	Ch. 271	SB 325
35-1-1311	repealed 6/1/2020	Ch. 271	SB 325
35-1-1312	repealed 6/1/2020	Ch. 271	SB 325
35-1-1315	repealed 6/1/2020	Ch. 271	SB 325
35-1-1403	amended	Ch. 271	SB 325
35-1-1406	amended	Ch. 271	SB 325
35-1-1407	amended	Ch. 271	SB 325
35-1-1408	amended	Ch. 271	SB 325
35-2-826	amended	Ch. 271	SB 325
35-4-503	amended	Ch. 271	SB 325
35-5-201	amended	Ch. 271	SB 325
35-6-101	amended	Ch. 271	SB 325
35-6-102	amended	Ch. 271	SB 325
35-6-104	amended	Ch. 271	SB 325
35-6-201	amended	Ch. 271	SB 325
35-8-103	amended	Ch. 271	SB 325
35-9-103	amended	Ch. 271	SB 325
35-9-201	amended	Ch. 271	SB 325
35-9-202	amended	Ch. 271	SB 325
35-9-205	amended	Ch. 271	SB 325
35-9-302	amended	Ch. 271	SB 325
35-9-303	amended	Ch. 271	SB 325
35-9-402	amended	Ch. 271	SB 325
35-9-404	amended	Ch. 271	SB 325

35-14-625	enacted	Ch. 271	SB 325
35-14-626	enacted	Ch. 271	SB 325
35-14-627	enacted	Ch. 271	SB 325
35-14-630	enacted	Ch. 271	SB 325
35-14-631	enacted	Ch. 271	SB 325
35-14-640	enacted	Ch. 271	SB 325
35-14-701	enacted	Ch. 271	SB 325
35-14-702	enacted	Ch. 271	SB 325
35-14-703	enacted	Ch. 271	SB 325
35-14-704	enacted	Ch. 271	SB 325
35-14-705	enacted	Ch. 271	SB 325
35-14-706	enacted	Ch. 271	SB 325
35-14-707	enacted	Ch. 271	SB 325
35-14-708	enacted	Ch. 271	SB 325
35-14-709	enacted	Ch. 271	SB 325
35-14-720	enacted	Ch. 271	SB 325
35-14-721	enacted	Ch. 271	SB 325
35-14-722	enacted	Ch. 271	SB 325
35-14-723	enacted	Ch. 271	SB 325
35-14-724	enacted	Ch. 271	SB 325
35-14-725	enacted	Ch. 271	SB 325
35-14-726	enacted	Ch. 271	SB 325
35-14-727	enacted	Ch. 271	SB 325
35-14-728	enacted	Ch. 271	SB 325
35-14-729	enacted	Ch. 271	SB 325
35-14-730	enacted	Ch. 271	SB 325
35-14-731	enacted	Ch. 271	SB 325
35-14-732	enacted	Ch. 271	SB 325
35-14-740	enacted	Ch. 271	SB 325
35-14-741	enacted	Ch. 271	SB 325
35-14-742	enacted	Ch. 271	SB 325
35-14-743	enacted	Ch. 271	SB 325
35-14-744	enacted	Ch. 271	SB 325
35-14-745	enacted	Ch. 271	SB 325
35-14-746	enacted	Ch. 271	SB 325
35-14-747	enacted	Ch. 271	SB 325
35-14-748	enacted	Ch. 271	SB 325
35-14-749	enacted	Ch. 271	SB 325
35-14-801	enacted	Ch. 271	SB 325
35-14-802	enacted	Ch. 271	SB 325
35-14-803	enacted	Ch. 271	SB 325
35-14-804	enacted	Ch. 271	SB 325
35-14-805	enacted	Ch. 271	SB 325
35-14-806	enacted	Ch. 271	SB 325
35-14-807	enacted	Ch. 271	SB 325
35-14-808	enacted	Ch. 271	SB 325
35-14-809	enacted	Ch. 271	SB 325
35-14-810	enacted	Ch. 271	SB 325
35-14-811	enacted	Ch. 271	SB 325
35-14-820	enacted	Ch. 271	SB 325
35-14-821	enacted	Ch. 271	SB 325
35-14-822	enacted	Ch. 271	SB 325
35-14-823	enacted	Ch. 271	SB 325
35-14-824	enacted	Ch. 271	SB 325
35-14-825	enacted	Ch. 271	SB 325
35-14-826	enacted	Ch. 271	SB 325

35-14-830	enacted	Ch. 271	SB 325
35-14-831	enacted	Ch. 271	SB 325
35-14-832	enacted	Ch. 271	SB 325
35-14-840	enacted	Ch. 271	SB 325
35-14-841	enacted	Ch. 271	SB 325
35-14-842	enacted	Ch. 271	SB 325
35-14-843	enacted	Ch. 271	SB 325
35-14-844	enacted	Ch. 271	SB 325
35-14-850	enacted	Ch. 271	SB 325
35-14-851	enacted	Ch. 271	SB 325
35-14-852	enacted	Ch. 271	SB 325
35-14-853	enacted	Ch. 271	SB 325
35-14-854	enacted	Ch. 271	SB 325
35-14-855	enacted	Ch. 271	SB 325
35-14-856	enacted	Ch. 271	SB 325
35-14-857	enacted	Ch. 271	SB 325
35-14-858	enacted	Ch. 271	SB 325
35-14-859	enacted	Ch. 271	SB 325
35-14-860	enacted	Ch. 271	SB 325
35-14-861	enacted	Ch. 271	SB 325
35-14-862	enacted	Ch. 271	SB 325
35-14-863	enacted	Ch. 271	SB 325
35-14-870	enacted	Ch. 271	SB 325
35-14-901	enacted	Ch. 271	SB 325
35-14-902	enacted	Ch. 271	SB 325
35-14-903	enacted	Ch. 271	SB 325
35-14-904	enacted	Ch. 271	SB 325
35-14-920	enacted	Ch. 271	SB 325
35-14-921	enacted	Ch. 271	SB 325
35-14-922	enacted	Ch. 271	SB 325
35-14-923	enacted	Ch. 271	SB 325
35-14-924	enacted	Ch. 271	SB 325
35-14-930	enacted	Ch. 271	SB 325
35-14-931	enacted	Ch. 271	SB 325
35-14-932	enacted	Ch. 271	SB 325
35-14-933	enacted	Ch. 271	SB 325
35-14-934	enacted	Ch. 271	SB 325
35-14-935	enacted	Ch. 271	SB 325
35-14-1001	enacted	Ch. 271	SB 325
35-14-1002	enacted	Ch. 271	SB 325
35-14-1003	enacted	Ch. 271	SB 325
35-14-1004	enacted	Ch. 271	SB 325
35-14-1005	enacted	Ch. 271	SB 325
35-14-1006	enacted	Ch. 271	SB 325
35-14-1007	enacted	Ch. 271	SB 325
35-14-1008	enacted	Ch. 271	SB 325
35-14-1009	enacted	Ch. 271	SB 325
35-14-1020	enacted	Ch. 271	SB 325
35-14-1021	enacted	Ch. 271	SB 325
35-14-1022	enacted	Ch. 271	SB 325
35-14-1101	enacted	Ch. 271	SB 325
35-14-1102	enacted	Ch. 271	SB 325
35-14-1103	enacted	Ch. 271	SB 325
35-14-1104	enacted	Ch. 271	SB 325
35-14-1105	enacted	Ch. 271	SB 325
35-14-1106	enacted	Ch. 271	SB 325

35-14-1107	enacted	Ch. 271	SB 325
35-14-1108	enacted	Ch. 271	SB 325
35-14-1201	enacted	Ch. 271	SB 325
35-14-1202	enacted	Ch. 271	SB 325
35-14-1301	enacted	Ch. 271	SB 325
35-14-1302	enacted	Ch. 271	SB 325
35-14-1303	enacted	Ch. 271	SB 325
35-14-1320	enacted	Ch. 271	SB 325
35-14-1321	enacted	Ch. 271	SB 325
35-14-1322	enacted	Ch. 271	SB 325
35-14-1323	enacted	Ch. 271	SB 325
35-14-1324	enacted	Ch. 271	SB 325
35-14-1325	enacted	Ch. 271	SB 325
35-14-1326	enacted	Ch. 271	SB 325
35-14-1330	enacted	Ch. 271	SB 325
35-14-1331	enacted	Ch. 271	SB 325
35-14-1340	enacted	Ch. 271	SB 325
35-14-1401	enacted	Ch. 271	SB 325
35-14-1402	enacted	Ch. 271	SB 325
35-14-1403	enacted	Ch. 271	SB 325
35-14-1404	enacted	Ch. 271	SB 325
35-14-1405	enacted	Ch. 271	SB 325
35-14-1406	enacted	Ch. 271	SB 325
35-14-1407	enacted	Ch. 271	SB 325
35-14-1408	enacted	Ch. 271	SB 325
35-14-1409	enacted	Ch. 271	SB 325
35-14-1420	enacted	Ch. 271	SB 325
35-14-1421	enacted	Ch. 271	SB 325
35-14-1422	enacted	Ch. 271	SB 325
35-14-1423	enacted	Ch. 271	SB 325
35-14-1430	enacted	Ch. 271	SB 325
35-14-1431	enacted	Ch. 271	SB 325
35-14-1432	enacted	Ch. 271	SB 325
35-14-1433	enacted	Ch. 271	SB 325
35-14-1434	enacted	Ch. 271	SB 325
35-14-1440	enacted	Ch. 271	SB 325
35-14-1501	enacted	Ch. 271	SB 325
35-14-1502	enacted	Ch. 271	SB 325
35-14-1503	enacted	Ch. 271	SB 325
35-14-1504	enacted	Ch. 271	SB 325
35-14-1505	enacted	Ch. 271	SB 325
35-14-1506	enacted	Ch. 271	SB 325
35-14-1507	enacted	Ch. 271	SB 325
35-14-1508	enacted	Ch. 271	SB 325
35-14-1509	enacted	Ch. 271	SB 325
35-14-1510	enacted	Ch. 271	SB 325
35-14-1511	enacted	Ch. 271	SB 325
35-14-1512	enacted	Ch. 271	SB 325
35-14-1601	enacted	Ch. 271	SB 325
35-14-1602	enacted	Ch. 271	SB 325
35-14-1603	enacted	Ch. 271	SB 325
35-14-1604	enacted	Ch. 271	SB 325
35-14-1605	enacted	Ch. 271	SB 325
35-14-1620	enacted	Ch. 271	SB 325
35-14-1621	enacted	Ch. 271	SB 325
35-15-201	amended	Ch. 271	SB 325

35-16-202	amended	Ch. 271	SB 325
35-17-202	amended	Ch. 271	SB 325
35-18-203	amended	Ch. 271	SB 325
35-18-316	amended	Ch. 47	HB 206
35-20-103	amended	Ch. 271	SB 325
37-1-101	amended	Ch. 195	HB 581
37-1-304	amended	Ch. 83	HB 105
37-1-305	amended	Ch. 195	HB 581
37-1-306	amended	Ch. 50	SB 75
37-1-307	amended	Ch. 195	HB 581
	amended	Ch. 287	SB 74
37-2-101	amended	Ch. 89	HB 86
37-2-108	enacted	Ch. 89	HB 86
37-2-317	enacted	Ch. 412	HB 599
37-2-318	enacted	Ch. 412	HB 599
37-3-102	amended	Ch. 220	SB 38
37-3-203	amended	Ch. 220	SB 38
37-3-303	amended	Ch. 220	SB 38
37-4-341	amended	Ch. 195	HB 581
37-4-408	amended	Ch. 157	SB 157
37-7-101	amended	Ch. 130	SB 61
	amended	Ch. 463	HB 231
37-7-105	amended	Ch. 463	HB 231
37-7-410	enacted	Ch. 89	HB 86
37-7-605	amended	Ch. 3	HB 60
37-7-1503	amended	Ch. 89	HB 86
	amended	Ch. 130	SB 61
37-7-1506	amended	Ch. 130	SB 61
37-7-1511	amended	Ch. 130	SB 61
37-7-1515	enacted	Ch. 89	HB 86
37-8-410	enacted	Ch. 52	SB 94
37-11-105	amended	Ch. 193	HB 518
37-11-312	amended	Ch. 287	SB 74
37-17-104	amended	Ch. 195	HB 581
37-17-403	amended	Ch. 287	SB 74
37-19-101	amended	Ch. 49	SB 63
37-19-301	repealed	Ch. 49	SB 63
37-19-302	amended	Ch. 46	HB 196
	amended	Ch. 49	SB 63
37-19-303	amended	Ch. 49	SB 63
37-19-308	enacted	Ch. 49	SB 63
37-19-402	amended	Ch. 49	SB 63
37-19-801	amended	Ch. 49	SB 63
37-19-802	amended	Ch. 49	SB 63
37-19-803	amended	Ch. 49	SB 63
37-19-807	amended	Ch. 49	SB 63
37-19-808	amended	Ch. 49	SB 63
37-19-823	amended	Ch. 49	SB 63
37-19-827	amended	Ch. 49	SB 63
37-20-303	amended	Ch. 220	SB 38
37-22-102	amended	Ch. 390	HB 626
37-22-103	enacted	Ch. 390	HB 626
37-22-301	amended	Ch. 390	HB 626
37-22-305	amended	Ch. 195	HB 581
37-22-307	enacted	Ch. 390	HB 626
37-22-308	enacted	Ch. 390	HB 626

37-22-313	amended	Ch. 390	HB 626
37-23-201	amended	Ch. 195	HB 581
37-24-106	amended	Ch. 112	SB 59
37-24-107	amended	Ch. 112	SB 59
37-27-104	amended	Ch. 220	SB 38
37-33-406	enacted	Ch. 419	HB 749
37-47-201	amended	Ch. 236	SB 222
37-47-304	amended	Ch. 221	SB 44
	amended	Ch. 236	SB 222
37-48-101	repealed	Ch. 293	SB 267
37-48-102	repealed	Ch. 293	SB 267
37-48-103	repealed	Ch. 293	SB 267
37-48-106	repealed	Ch. 293	SB 267
37-48-107	repealed	Ch. 293	SB 267
37-48-108	repealed	Ch. 293	SB 267
37-48-113	repealed	Ch. 293	SB 267
37-48-115	repealed	Ch. 293	SB 267
37-48-118	repealed	Ch. 293	SB 267
37-50-302	amended	Ch. 3	HB 60
	amended	Ch. 50	SB 75
37-50-305	amended	Ch. 50	SB 75
37-51-102	amended	Ch. 354	HB 376
37-51-302	amended	Ch. 51	SB 77
37-51-321	amended	Ch. 358	HB 416
37-51-325	enacted	Ch. 358	HB 416
37-51-501	repealed 2/1/2021	Ch. 354	HB 376
37-51-502	repealed 2/1/2021	Ch. 354	HB 376
37-51-503	repealed 2/1/2021	Ch. 354	HB 376
37-51-504	repealed 2/1/2021	Ch. 354	HB 376
37-51-505	repealed 2/1/2021	Ch. 354	HB 376
37-51-506	repealed 2/1/2021	Ch. 354	HB 376
37-51-507	repealed 2/1/2021	Ch. 354	HB 376
37-51-508	repealed 2/1/2021	Ch. 354	HB 376
37-51-509	repealed 2/1/2021	Ch. 354	HB 376
37-51-510	repealed 2/1/2021	Ch. 354	HB 376
37-51-511	repealed 2/1/2021	Ch. 354	HB 376
37-51-512	repealed 2/1/2021	Ch. 354	HB 376
37-68-310	repealed	Ch. 14	HB 68
37-69-304	amended	Ch. 420	HB 751
37-69-305	amended	Ch. 420	HB 751
37-69-323	amended	Ch. 420	HB 751
39-2-1501	enacted	Ch. 324	SB 286
39-2-1502	enacted	Ch. 324	SB 286
39-2-1503	enacted	Ch. 324	SB 286
39-3-213	amended	Ch. 185	HB 319
39-3-406	amended	Ch. 234	SB 218
39-7-303	amended	Ch. 41	HB 79
39-9-101	amended	Ch. 294	SB 269
39-9-102	amended	Ch. 294	SB 269
39-9-206	amended	Ch. 294	SB 269
39-9-207	amended	Ch. 294	SB 269
39-9-211	amended	Ch. 294	SB 269
39-9-212	enacted	Ch. 294	SB 269
39-9-213	formerly 30-14-1004	Ch. 294	SB 269
39-9-301	amended	Ch. 294	SB 269
39-9-303	amended	Ch. 294	SB 269

39-9-304	amended	Ch. 294	SB 269
39-11-301	enacted	Ch. 366	HB 631
39-11-302	enacted	Ch. 366	HB 631
39-11-303	enacted	Ch. 366	HB 631
39-11-304	enacted	Ch. 366	HB 631
39-11-305	enacted	Ch. 366	HB 631
39-11-306	enacted	Ch. 366	HB 631
39-11-307	enacted	Ch. 366	HB 631
39-12-101	amended	Ch. 415	HB 658
39-12-103	amended	Ch. 21	HB 83
	amended	Ch. 415	HB 658
39-12-106	enacted	Ch. 415	HB 658
39-51-304	amended	Ch. 287	SB 74
39-51-409	amended	Ch. 400	HB 732
39-51-2207	amended	Ch. 51	SB 77
39-51-2302	amended	Ch. 27	HB 67
39-51-3206	amended	Ch. 284	HB 725
39-71-105	amended	Ch. 158	SB 160
39-71-118	amended	Ch. 41	HB 79
	amended	Ch. 220	SB 38
39-71-124	amended	Ch. 158	SB 160
39-71-201	amended	Ch. 400	HB 732
39-71-319	enacted	Ch. 400	HB 732
39-71-320	amended	Ch. 371	HB 757
39-71-407	amended	Ch. 158	SB 160
39-71-1003	repealed	Ch. 51	SB 77
39-71-1004	repealed	Ch. 51	SB 77
39-71-1401	enacted	Ch. 158	SB 160
39-71-1402	enacted	Ch. 158	SB 160
40-1-202	amended	Ch. 43	HB 136
40-1-203	amended	Ch. 43	HB 136
40-1-204	repealed	Ch. 43	HB 136
40-1-205	repealed	Ch. 43	HB 136
40-1-206	repealed	Ch. 43	HB 136
40-1-207	repealed	Ch. 43	HB 136
40-1-208	repealed	Ch. 43	HB 136
40-1-209	repealed	Ch. 43	HB 136
40-1-301	amended	Ch. 123	HB 370
40-1-311	amended	Ch. 43	HB 136
40-1-312	amended	Ch. 214	SB 255
40-3-102	amended	Ch. 350	HB 268
40-3-103	repealed	Ch. 350	HB 268
40-3-104	repealed	Ch. 350	HB 268
40-3-111	repealed	Ch. 350	HB 268
40-3-112	repealed	Ch. 350	HB 268
40-3-113	repealed	Ch. 350	HB 268
40-3-114	repealed	Ch. 350	HB 268
40-3-115	repealed	Ch. 350	HB 268
40-3-116	repealed	Ch. 350	HB 268
40-3-121	repealed	Ch. 350	HB 268
40-3-122	repealed	Ch. 350	HB 268
40-3-123	repealed	Ch. 350	HB 268
40-3-124	repealed	Ch. 350	HB 268
40-3-125	repealed	Ch. 350	HB 268
40-3-126	repealed	Ch. 350	HB 268
40-3-127	repealed	Ch. 350	HB 268

40-3-130	enacted	Ch. 350	HB 268
40-3-131	enacted	Ch. 350	HB 268
40-3-132	enacted	Ch. 350	HB 268
40-3-133	enacted	Ch. 350	HB 268
40-3-134	enacted	Ch. 350	HB 268
40-4-104	amended	Ch. 350	HB 268
40-4-107	amended	Ch. 350	HB 268
40-4-108	amended	Ch. 180	HB 274
40-4-131	amended	Ch. 180	HB 274
40-4-136	amended	Ch. 350	HB 268
40-4-208	amended	Ch. 368	HB 726
40-4-215	amended	Ch. 41	HB 79
40-5-201	amended	Ch. 364	HB 591
40-5-210	amended	Ch. 364	HB 591
40-5-225	amended	Ch. 364	HB 591
40-5-226	amended	Ch. 364	HB 591
40-5-232	amended	Ch. 364	HB 591
40-5-233	amended	Ch. 364	HB 591
40-5-234	amended	Ch. 364	HB 591
40-5-236	amended	Ch. 364	HB 591
40-5-237	amended	Ch. 364	HB 591
40-5-238	amended	Ch. 364	HB 591
40-5-272	amended	Ch. 131	SB 64
40-5-403	amended	Ch. 131	SB 64
40-5-421	amended	Ch. 131	SB 64
40-5-423	amended	Ch. 131	SB 64
40-5-804	amended	Ch. 131	SB 64
40-5-909	amended	Ch. 131	SB 64
40-5-1002	amended	Ch. 131	SB 64
40-5-1005	amended	Ch. 131	SB 64
40-5-1008	amended	Ch. 131	SB 64
40-5-1017	amended	Ch. 131	SB 64
40-5-1027	amended	Ch. 131	SB 64
40-5-1043	amended	Ch. 131	SB 64
40-5-1051	amended	Ch. 131	SB 64
40-5-1059	amended	Ch. 131	SB 64
40-5-1063	amended	Ch. 131	SB 64
40-5-1064	amended	Ch. 131	SB 64
40-5-1067	amended	Ch. 131	SB 64
40-5-1068	amended	Ch. 131	SB 64
40-5-1069	amended	Ch. 131	SB 64
40-5-1074	amended	Ch. 131	SB 64
40-6-102	amended	Ch. 364	HB 591
40-6-105	amended	Ch. 364	HB 591
40-6-111	amended	Ch. 364	HB 591
40-6-112	amended	Ch. 364	HB 591
40-6-113	amended	Ch. 364	HB 591
40-6-114	amended	Ch. 364	HB 591
40-6-115	amended	Ch. 364	HB 591
40-6-119	amended	Ch. 364	HB 591
40-6-1001	formerly 41-3-801	Code Commissioner	
40-6-1002	formerly 41-3-802	Code Commissioner	
40-6-1003	formerly 41-3-803	Code Commissioner	
40-7-109	amended	Ch. 98	HB 283
40-9-201	enacted	Ch. 199	HB 347
40-9-202	enacted	Ch. 199	HB 347

40-15-102	amended	Ch. 255	SB 114
41-3-102	amended	Ch. 367	HB 640
	amended	Ch. 382	HB 502
	amended	Ch. 468	HB 549
41-3-201	amended	Ch. 367	HB 640
41-3-202	amended	Ch. 367	HB 640
	amended	Ch. 382	HB 502
41-3-203	amended	Ch. 382	HB 502
41-3-204	amended	Ch. 382	HB 502
41-3-205	amended	Ch. 248	SB 35
	amended	Ch. 367	HB 640
	amended	Ch. 382	HB 502
41-3-207	amended	Ch. 367	HB 640
41-3-208	amended	Ch. 248	SB 35
41-3-208	amended	Ch. 382	HB 502
41-3-210	enacted	Ch. 367	HB 640
41-3-801	renumbered 40-6-1001	Code Commissioner	
41-3-802	renumbered 40-6-1002	Code Commissioner	
	amended	Ch. 3	HB 60
41-3-803	renumbered 40-6-1003	Code Commissioner	
	amended	Ch. 3	HB 60
41-5-103	amended	Ch. 344	HB 111
41-5-121	amended	Ch. 344	HB 111
41-5-124	amended	Ch. 344	HB 111
41-5-125	amended	Ch. 344	HB 111
41-5-130	amended	Ch. 344	HB 111
41-5-131	amended	Ch. 344	HB 111
41-5-132	amended	Ch. 344	HB 111
41-5-215	amended	Ch. 248	SB 35
	amended	Ch. 344	HB 111
41-5-332	amended	Ch. 344	HB 111
41-5-341	amended	Ch. 344	HB 111
41-5-1304	amended	Ch. 344	HB 111
41-5-1430	enacted	Ch. 344	HB 111
41-5-1432	amended	Ch. 344	HB 111
41-5-1512	amended	Ch. 344	HB 111
41-5-1513	amended	Ch. 344	HB 111
41-5-1522	amended	Ch. 344	HB 111
41-5-1523	amended	Ch. 344	HB 111
41-5-1524	amended	Ch. 344	HB 111
41-5-1604	amended	Ch. 344	HB 111
41-5-1703	amended	Ch. 344	HB 111
41-5-2005	amended	Ch. 344	HB 111
44-2-407	enacted	Ch. 273	HB 21
44-2-408	enacted	Ch. 275	HB 54
44-2-411	enacted	Ch. 373	SB 312
44-2-412	enacted	Ch. 373	SB 312
44-2-413	enacted	Ch. 373	SB 312
44-2-502	amended	Ch. 275	HB 54
44-2-504	amended	Ch. 23	HB 20
	amended	Ch. 275	HB 54
44-2-505	amended	Ch. 250	SB 40
44-2-506	amended	Ch. 250	SB 40
44-2-801	amended	Ch. 95	HB 198
44-4-1202	amended	Ch. 374	SB 362
44-4-1203	amended	Ch. 374	SB 362

44-4-1205	amended	Ch. 374	SB 362
44-4-1607	amended	Ch. 486	SB 352
44-5-202	amended	Ch. 22	HB 47
44-6-109	enacted	Ch. 320	SB 262
44-7-301	formerly 2-15-2012	Ch. 3	HB 60
44-7-302	formerly 2-15-2013	Ch. 3	HB 60
44-7-303	formerly 2-15-2014	Ch. 3	HB 60
45-1-205	amended	Ch. 367	HB 640
45-2-211	amended	Ch. 308	SB 147
45-5-214	amended	Ch. 220	SB 38
45-5-220	amended	Ch. 255	SB 114
45-5-501	amended	Ch. 133	SB 261
	amended	Ch. 181	HB 282
	amended (void - sec. 6, Ch. 305)	Ch. 305	SB 132
	amended	Ch. 344	HB 111
	amended	Ch. 346	HB 173
45-5-502	amended	Ch. 181	HB 282
	amended (void - sec. 7, Ch. 305)	Ch. 305	SB 132
	amended	Ch. 344	HB 111
	amended	Ch. 346	HB 173
45-5-503	amended	Ch. 228	SB 155
45-5-507	amended	Ch. 228	SB 155
45-5-601	amended	Ch. 308	SB 147
45-5-602	amended	Ch. 308	SB 147
45-5-603	amended	Ch. 308	SB 147
45-5-625	amended	Ch. 228	SB 155
45-5-702	amended	Ch. 308	SB 147
45-5-704	amended	Ch. 308	SB 147
45-5-705	amended	Ch. 308	SB 147
45-5-709	amended	Ch. 308	SB 147
	amended	Ch. 468	HB 549
45-6-301	amended	Ch. 372	HB 421
45-6-333	amended	Ch. 99	HB 334
45-8-101	amended	Ch. 372	HB 421
45-8-213	amended	Ch. 56	HB 228
	amended	Ch. 243	HB 192
45-8-322	amended	Ch. 44	HB 145
	amended	Ch. 121	HB 322
45-8-325	repealed	Ch. 44	HB 145
45-8-331	repealed	Ch. 119	HB 155
45-8-351	amended (not codified - referendum)	Ch. 218	HB 357
45-8-352	enacted	Ch. 119	HB 155
46-1-1104	amended	Ch. 456	HB 684
46-1-1115	enacted	Ch. 413	HB 654
46-1-1211	amended	Ch. 456	HB 684
46-4-105	amended	Ch. 40	HB 71
46-4-114	amended	Ch. 220	SB 38
46-5-109	amended	Ch. 178	HB 257
46-8-114	amended	Ch. 5	HB 89
46-11-801	repealed	Ch. 7	HB 46
46-12-211	amended	Ch. 456	HB 684
46-13-110	amended	Ch. 286	SB 43
46-14-311	amended	Ch. 456	HB 684
46-15-116	amended	Ch. 205	SB 26
46-15-320	enacted	Ch. 387	HB 590
46-15-404	enacted	Ch. 138	SB 52

46-15-405	enacted	Ch. 138	SB 52
46-15-406	enacted	Ch. 138	SB 52
46-15-411	amended	Ch. 138	SB 52
46-15-412	enacted	Ch. 138	SB 52
46-16-129	enacted	Ch. 456	HB 684
46-17-203	amended	Ch. 430	HB 233
46-18-104	amended	Ch. 132	SB 88
	amended	Ch. 308	SB 147
46-18-111	amended	Ch. 113	SB 84
	amended	Ch. 308	SB 147
	amended	Ch. 456	HB 684
46-18-112	amended	Ch. 456	HB 684
46-18-201	amended	Ch. 3	HB 60
	amended	Ch. 348	HB 217
46-18-207	amended	Ch. 308	SB 147
46-18-208	amended	Ch. 380	HB 463
46-18-219	amended	Ch. 308	SB 147
46-18-231	amended	Ch. 308	SB 147
46-18-242	amended	Ch. 456	HB 684
46-18-1101	amended	Ch. 7	HB 46
	amended	Ch. 22	HB 47
	repealed	Ch. 384	HB 543
46-18-1102	enacted	Ch. 384	HB 543
46-18-1103	enacted	Ch. 384	HB 543
46-18-1104	enacted	Ch. 384	HB 543
46-18-1105	enacted	Ch. 384	HB 543
46-18-1106	enacted	Ch. 384	HB 543
46-18-1107	enacted	Ch. 384	HB 543
46-18-1108	enacted	Ch. 384	HB 543
46-18-1109	enacted	Ch. 384	HB 543
46-18-1110	enacted	Ch. 384	HB 543
46-18-1111	enacted	Ch. 384	HB 543
46-23-102	amended	Ch. 344	HB 111
46-23-110	amended	Ch. 249	SB 37
46-23-502	amended	Ch. 308	SB 147
46-23-901	repealed	Ch. 404	HB 369
46-23-902	repealed	Ch. 404	HB 369
46-23-903	repealed	Ch. 404	HB 369
46-23-1001	amended	Ch. 235	SB 220
46-23-1005	amended	Ch. 235	SB 220
46-23-1011	amended	Ch. 380	HB 463
46-24-301	repealed	Ch. 7	HB 46
46-24-302	repealed	Ch. 7	HB 46
46-24-307	repealed	Ch. 7	HB 46
47-1-105	amended	Ch. 61	HB 73
47-1-110	repealed	Ch. 5	HB 89
47-1-111	amended	Ch. 6	HB 117
47-1-121	amended	Ch. 3	HB 60
47-1-201	amended	Ch. 61	HB 73
47-1-301	amended	Ch. 61	HB 73
47-1-401	amended	Ch. 61	HB 73
49-2-221	enacted	Ch. 361	HB 439
49-2-222	enacted	Ch. 361	HB 439
49-4-203	amended	Ch. 361	HB 439
49-4-214	amended	Ch. 361	HB 439
50-4-601	repealed	Ch. 467	HB 489

50-4-602	repealed	Ch. 467	HB 489
50-4-603	repealed	Ch. 467	HB 489
50-4-604	repealed	Ch. 467	HB 489
50-4-605	repealed	Ch. 467	HB 489
50-4-609	repealed	Ch. 467	HB 489
50-4-610	repealed	Ch. 467	HB 489
50-4-611	repealed	Ch. 467	HB 489
50-4-612	repealed	Ch. 467	HB 489
50-4-621	repealed	Ch. 467	HB 489
50-4-622	repealed	Ch. 467	HB 489
50-5-224	renumbered 53-21-199	Code Commissioner	
50-5-225	amended	Ch. 362	HB 566
50-5-227	amended	Ch. 362	HB 566
50-6-101	amended	Ch. 220	SB 38
50-6-103	amended	Ch. 220	SB 38
50-6-105	amended	Ch. 220	SB 38
50-6-201	amended	Ch. 220	SB 38
50-6-202	amended	Ch. 220	SB 38
50-6-203	amended	Ch. 220	SB 38
50-6-206	amended	Ch. 220	SB 38
50-6-301	amended	Ch. 220	SB 38
50-6-302	amended	Ch. 220	SB 38
50-6-322	amended	Ch. 220	SB 38
50-6-323	amended	Ch. 220	SB 38
50-6-506	amended	Ch. 220	SB 38
50-9-102	amended	Ch. 220	SB 38
50-16-603	amended	Ch. 382	HB 502
50-16-701	amended	Ch. 220	SB 38
50-31-103	amended	Ch. 186	HB 327
50-31-110	amended	Ch. 186	HB 327
50-31-203	amended	Ch. 186	HB 327
50-31-208	amended	Ch. 186	HB 327
50-31-312	amended	Ch. 186	HB 327
50-32-222	amended	Ch. 3	HB 60
	amended	Ch. 134	SB 274
50-32-224	amended	Ch. 134	SB 274
50-32-226	amended	Ch. 134	SB 274
50-32-229	amended	Ch. 134	SB 274
50-32-232	amended	Ch. 134	SB 274
50-32-609	amended	Ch. 265	SB 289
50-46-302	amended	Ch. 292	SB 265
	amended	Ch. 411	HB 598
50-46-303	amended	Ch. 292	SB 265
	amended	Ch. 411	HB 598
50-46-304	enacted	Ch. 292	SB 265
	enacted	Ch. 411	HB 598
50-46-305	enacted	Ch. 292	SB 265
50-46-307	amended	Ch. 292	SB 265
50-46-308	amended	Ch. 292	SB 265
50-46-309	amended	Ch. 292	SB 265
50-46-310	amended	Ch. 292	SB 265
50-46-311	amended	Ch. 292	SB 265
	amended	Ch. 411	HB 598
50-46-312	amended	Ch. 411	HB 598
50-46-313	enacted	Ch. 292	SB 265
50-46-317	amended	Ch. 292	SB 265
50-46-319	amended	Ch. 292	SB 265

50-46-320	amended	Ch. 292	SB 265
50-46-326	amended	Ch. 292	SB 265
	amended	Ch. 411	HB 598
50-46-327	amended	Ch. 292	SB 265
50-46-329	amended	Ch. 292	SB 265
	amended	Ch. 411	HB 598
50-46-330	amended	Ch. 292	SB 265
50-46-341	amended	Ch. 292	SB 265
50-46-343	amended	Ch. 292	SB 265
50-46-344	amended	Ch. 292	SB 265
	amended	Ch. 411	HB 598
50-46-345	amended	Ch. 292	SB 265
	amended (replaced - sec. 36, Ch. 292)	Ch. 297	SB 30
50-46-346	enacted	Ch. 292	SB 265
50-46-347	enacted	Ch. 292	SB 265
50-50-126	amended	Ch. 3	HB 60
50-73-205	amended	Ch. 51	SB 77
50-73-206	amended	Ch. 51	SB 77
50-73-209	amended	Ch. 51	SB 77
50-74-103	amended	Ch. 322	SB 271
50-74-209	amended	Ch. 322	SB 271
50-74-219	amended	Ch. 322	SB 271
50-74-306	amended	Ch. 322	SB 271
50-74-307	amended	Ch. 322	SB 271
52-2-211	amended	Ch. 248	SB 35
52-2-304	amended	Ch. 248	SB 35
52-2-710	amended	Ch. 41	HB 79
52-2-801	enacted	Ch. 293	SB 267
52-2-802	enacted	Ch. 293	SB 267
52-2-803	enacted	Ch. 293	SB 267
52-2-804	enacted	Ch. 293	SB 267
52-2-805	enacted	Ch. 293	SB 267
52-2-806	enacted	Ch. 293	SB 267
52-2-807	enacted	Ch. 293	SB 267
52-2-808	enacted	Ch. 293	SB 267
52-2-809	enacted	Ch. 293	SB 267
52-2-810	enacted	Ch. 293	SB 267
52-2-811	enacted	Ch. 293	SB 267
52-3-115	amended	Ch. 393	HB 669
52-3-803	amended	Ch. 329	SB 324
52-3-825	amended	Ch. 329	SB 324
52-5-102	amended	Ch. 344	HB 111
52-5-103	amended	Ch. 344	HB 111
52-5-109	amended	Ch. 344	HB 111
52-5-126	amended	Ch. 344	HB 111
52-5-127	amended	Ch. 344	HB 111
52-5-128	amended	Ch. 344	HB 111
52-5-129	repealed	Ch. 344	HB 111
53-1-107	amended	Ch. 129	SB 36
53-1-109	amended	Ch. 2	SB 62
53-1-203	amended	Ch. 7	HB 46
	amended	Ch. 344	HB 111
53-1-216	enacted	Ch. 404	HB 369
53-1-402	amended	Ch. 3	HB 60
	amended	Ch. 393	HB 669
53-2-201	amended	Ch. 41	HB 79
53-2-211	amended	Ch. 41	HB 79

53-2-215	amended	Ch. 41	HB 79
53-2-606	amended	Ch. 41	HB 79
53-2-613	amended	Ch. 41	HB 79
53-2-901	amended	Ch. 41	HB 79
53-2-902	amended	Ch. 41	HB 79
53-2-903	amended	Ch. 41	HB 79
53-2-1203	amended	Ch. 363	HB 523
53-3-115	amended	Ch. 41	HB 79
53-4-201	amended	Ch. 41	HB 79
53-4-202	amended	Ch. 41	HB 79
53-4-212	amended	Ch. 41	HB 79
53-4-216	repealed	Ch. 41	HB 79
53-4-221	amended	Ch. 41	HB 79
53-4-231	amended	Ch. 41	HB 79
53-4-232	amended	Ch. 41	HB 79
53-4-233	amended	Ch. 41	HB 79
53-4-241	amended	Ch. 41	HB 79
53-4-244	amended	Ch. 41	HB 79
53-4-250	repealed	Ch. 41	HB 79
53-4-255	repealed	Ch. 41	HB 79
53-4-256	repealed	Ch. 41	HB 79
53-4-257	repealed	Ch. 41	HB 79
53-4-601	repealed	Ch. 41	HB 79
53-4-602	amended	Ch. 41	HB 79
53-4-606	repealed	Ch. 41	HB 79
53-4-609	repealed	Ch. 41	HB 79
53-4-611	amended	Ch. 41	HB 79
53-4-612	repealed	Ch. 41	HB 79
53-4-613	amended	Ch. 41	HB 79
53-4-702	amended	Ch. 41	HB 79
53-4-704	amended	Ch. 41	HB 79
53-4-705	amended	Ch. 41	HB 79
53-4-706	amended	Ch. 41	HB 79
53-4-717	amended	Ch. 41	HB 79
53-4-721	repealed	Ch. 41	HB 79
53-4-1110	amended	Ch. 415	HB 658
53-6-101	amended	Ch. 41	HB 79
	amended	Ch. 297	SB 30
	amended	Ch. 412	HB 599
53-6-125	amended	Ch. 393	HB 669
53-6-131	amended	Ch. 415	HB 658
53-6-133	amended	Ch. 415	HB 658
53-6-149	amended	Ch. 415	HB 658
53-6-160	amended	Ch. 415	HB 658
53-6-402	amended	Ch. 194	HB 529
53-6-1302	amended	Ch. 415	HB 658
53-6-1303	amended	Ch. 415	HB 658
53-6-1304	amended	Ch. 415	HB 658
53-6-1305	amended	Ch. 415	HB 658
53-6-1306	amended	Ch. 21	HB 83
	amended	Ch. 415	HB 658
53-6-1307	amended	Ch. 415	HB 658
53-6-1308	enacted	Ch. 415	HB 658
53-6-1309	enacted	Ch. 415	HB 658
53-6-1310	enacted	Ch. 415	HB 658
53-6-1311	amended	Ch. 415	HB 658

53-6-1312	amended	Ch. 456	HB 684
53-6-1314	enacted	Ch. 415	HB 658
53-6-1315	enacted	Ch. 415	HB 658
53-6-1316	repealed	Ch. 21	HB 83
	repealed	Ch. 415	HB 658
53-6-1317	repealed	Ch. 21	HB 83
53-6-1325	enacted	Ch. 415	HB 658
53-19-310	amended	Ch. 393	HB 669
53-20-202	amended	Ch. 394	HB 680
53-20-203	amended	Ch. 246	SB 5
53-20-205	amended	Ch. 394	HB 680
53-20-215	enacted	Ch. 246	SB 5
53-21-199	formerly 50-5-224	Code Commissioner	
53-21-508	amended	Ch. 385	HB 583
53-21-1207	enacted	Ch. 297	SB 30
53-21-1208	enacted	Ch. 416	HB 660
53-21-1209	enacted	Ch. 416	HB 660
53-21-1210	enacted	Ch. 416	HB 660
53-24-301	amended	Ch. 20	HB 103
53-25-102	amended	Ch. 433	HB 288
53-25-103	amended	Ch. 108	HB 320
	amended	Ch. 433	HB 288
53-25-104	amended	Ch. 30	HB 88
	amended	Ch. 433	HB 288
53-25-105	amended	Ch. 433	HB 288
53-25-109	amended	Ch. 30	HB 88
	amended	Ch. 433	HB 288
53-25-110	amended	Ch. 433	HB 288
53-25-111	amended	Ch. 433	HB 288
53-25-112	amended	Ch. 433	HB 288
53-25-113	amended	Ch. 433	HB 288
53-25-117	amended	Ch. 433	HB 288
53-25-118	amended	Ch. 433	HB 288
53-25-119	amended	Ch. 433	HB 288
53-25-121	amended	Ch. 433	HB 288
53-25-122	enacted	Ch. 108	HB 320
53-30-507	amended	Ch. 456	HB 684
53-30-701	enacted	Ch. 482	HB 763
53-30-702	enacted	Ch. 482	HB 763
53-30-703	enacted	Ch. 482	HB 763
53-30-707	enacted	Ch. 482	HB 763
53-30-708	enacted	Ch. 482	HB 763
53-30-709	enacted	Ch. 482	HB 763
53-30-710	enacted	Ch. 482	HB 763
53-30-716	enacted	Ch. 482	HB 763
53-30-717	enacted	Ch. 482	HB 763
53-30-718	enacted	Ch. 482	HB 763
53-30-719	enacted	Ch. 482	HB 763
53-30-720	enacted	Ch. 482	HB 763
53-30-725	enacted	Ch. 482	HB 763
60-1-102	amended	Ch. 299	SB 51
60-1-103	amended	Ch. 299	SB 51
60-1-201	amended	Ch. 299	SB 51
60-1-225	enacted	Ch. 54	SB 175
60-1-226	enacted	Ch. 116	SB 260
60-1-227	enacted	Ch. 182	HB 285

60-1-228	enacted	Ch. 321	SB 268
60-1-229	enacted	Ch. 370	HB 756
60-1-230	enacted	Ch. 17	HB 156
60-1-231	enacted	Ch. 55	SB 196
60-1-232	enacted	Ch. 338	SB 365
60-1-233	enacted	Ch. 457	HB 719
60-1-234	enacted	Ch. 481	HB 748
60-1-235	enacted	Ch. 478	HB 717
60-2-107	amended	Ch. 299	SB 51
60-2-111	amended	Ch. 299	SB 51
60-2-119	amended	Ch. 163	SB 226
60-2-125	repealed	Ch. 299	SB 51
60-2-126	amended	Ch. 299	SB 51
60-2-129	amended	Ch. 299	SB 51
60-2-141	amended	Ch. 299	SB 51
60-2-201	amended	Ch. 299	SB 51
60-2-208	amended	Ch. 299	SB 51
60-2-217	amended	Ch. 299	SB 51
60-2-218	amended	Ch. 299	SB 51
60-2-245	amended	Ch. 448	HB 580
60-3-201	amended	Ch. 177	HB 243
	amended	Ch. 455	HB 661
60-3-205	amended	Ch. 299	SB 51
60-3-207	amended	Ch. 299	SB 51
60-4-110	amended	Ch. 299	SB 51
60-4-203	amended	Ch. 170	HB 37
60-4-208	amended	Ch. 299	SB 51
60-4-401	amended	Ch. 299	SB 51
60-4-402	amended	Ch. 303	SB 76
60-4-403	amended	Ch. 299	SB 51
60-5-101	amended	Ch. 299	SB 51
60-5-102	amended	Ch. 299	SB 51
60-5-103	amended	Ch. 299	SB 51
60-5-106	amended	Ch. 299	SB 51
60-6-101	amended	Ch. 303	SB 76
60-6-102	amended	Ch. 303	SB 76
60-6-103	amended	Ch. 303	SB 76
60-6-104	amended	Ch. 303	SB 76
60-6-105	amended	Ch. 303	SB 76
61-1-101	amended	Ch. 309	SB 158
61-2-302	amended	Ch. 445	HB 515
61-2-502	amended	Ch. 220	SB 38
61-2-503	amended	Ch. 220	SB 38
61-2-504	amended	Ch. 220	SB 38
61-3-111	amended	Ch. 295	SB 353
61-3-205	amended	Ch. 197	HB 624
61-3-220	amended	Ch. 197	HB 624
61-3-224	amended	Ch. 143	HB 450
	amended	Ch. 335	SB 346
61-3-312	amended	Ch. 335	SB 346
61-3-315	repealed	Ch. 335	SB 346
61-3-316	amended	Ch. 335	SB 346
61-3-317	amended	Ch. 309	SB 158
61-3-320	amended	Ch. 295	SB 353
61-3-321	amended	Ch. 219	SB 24
	amended	Ch. 335	SB 346

	amended	Ch. 353	HB 355
	amended (void - sec. 3, Ch. 486)	Ch. 356	HB 411
61-3-332	amended	Ch. 335	SB 346
61-3-411	amended	Ch. 197	HB 624
	amended	Ch. 295	SB 353
61-3-412	amended	Ch. 295	SB 353
61-3-413	amended	Ch. 295	SB 353
61-3-414	amended	Ch. 335	SB 346
61-3-415	amended	Ch. 335	SB 346
61-3-423	amended	Ch. 335	SB 346
61-3-460	amended	Ch. 327	SB 319
61-3-474	amended	Ch. 295	SB 353
	amended	Ch. 335	SB 346
61-3-475	amended	Ch. 295	SB 353
61-3-506	repealed	Ch. 335	SB 346
61-3-535	amended	Ch. 335	SB 346
61-4-101	amended	Ch. 143	HB 450
61-4-106	amended	Ch. 143	HB 450
61-4-110	amended	Ch. 143	HB 450
61-4-120	amended	Ch. 143	HB 450
61-4-124	amended	Ch. 143	HB 450
61-4-125	amended	Ch. 143	HB 450
61-4-127	amended	Ch. 143	HB 450
61-4-132	amended	Ch. 283	HB 617
61-4-133	amended	Ch. 283	HB 617
61-4-134	amended	Ch. 283	HB 617
61-4-203	amended	Ch. 335	SB 346
61-4-204	amended	Ch. 283	HB 617
61-4-205	amended	Ch. 283	HB 617
61-4-206	amended	Ch. 283	HB 617
61-4-207	amended	Ch. 283	HB 617
61-4-213	enacted	Ch. 283	HB 617
61-4-532	repealed	Ch. 335	SB 346
61-5-102	amended	Ch. 309	SB 158
61-5-111	amended	Ch. 335	SB 346
	amended	Ch. 445	HB 515
61-5-112	amended	Ch. 309	SB 158
	amended	Ch. 335	SB 346
61-5-118	amended	Ch. 335	SB 346
61-5-123	amended	Ch. 335	SB 346
	amended	Ch. 445	HB 515
61-5-125	repealed	Ch. 335	SB 346
61-5-214	amended	Ch. 348	HB 217
61-5-216	amended	Ch. 348	HB 217
61-5-232	amended	Ch. 335	SB 346
61-6-131	amended	Ch. 445	HB 515
61-6-157	amended	Ch. 445	HB 515
61-6-301	amended	Ch. 4	HB 62
	amended	Ch. 445	HB 515
61-6-302	amended	Ch. 445	HB 515
61-6-303	amended	Ch. 4	HB 62
	amended	Ch. 445	HB 515
61-8-102	amended	Ch. 309	SB 158
61-8-303	amended	Ch. 299	SB 51
61-8-309	amended	Ch. 299	SB 51
	amended	Ch. 440	HB 440

61-8-310	amended	Ch. 174	HB 190
	amended	Ch. 299	SB 51
61-8-312	amended	Ch. 299	SB 51
	amended	Ch. 438	HB 393
61-8-321	amended	Ch. 299	SB 51
61-8-355	amended	Ch. 299	SB 51
61-8-818	enacted	Ch. 445	HB 515
61-9-101	amended	Ch. 299	SB 51
61-9-109	amended	Ch. 299	SB 51
61-10-103	amended	Ch. 437	HB 389
61-10-124	amended	Ch. 299	SB 51
61-10-125	amended	Ch. 326	SB 317
61-10-128	amended	Ch. 90	SB 91
61-10-130	amended	Ch. 299	SB 51
61-10-143	repealed	Ch. 299	SB 51
61-10-144	amended	Ch. 299	SB 51
61-10-154	amended	Ch. 163	SB 226
61-11-102	amended	Ch. 335	SB 346
	amended	Ch. 445	HB 515
61-11-203	amended	Ch. 445	HB 515
61-11-503	amended	Ch. 335	SB 346
61-11-508	amended	Ch. 445	HB 515
61-11-516	repealed	Ch. 335	SB 346
61-12-401	amended	Ch. 102	SB 248
61-12-402	amended	Ch. 427	HB 15
61-12-502	amended	Ch. 335	SB 346
61-13-103	amended	Ch. 335	SB 346
61-14-101	enacted	Ch. 335	SB 346
61-14-201	enacted	Ch. 335	SB 346
61-14-202	enacted	Ch. 335	SB 346
61-14-301	enacted	Ch. 335	SB 346
67-1-301	amended	Ch. 455	HB 661
67-1-303	amended	Ch. 455	HB 661
67-1-308	enacted	Ch. 455	HB 661
67-1-309	enacted	Ch. 455	HB 661
67-3-205	amended	Ch. 455	HB 661
67-3-206	amended	Ch. 455	HB 661
69-1-114	amended	Ch. 442	HB 467
	amended	Ch. 449	HB 597
69-2-103	enacted	Ch. 449	HB 597
69-3-331	enacted	Ch. 316	SB 244
69-3-702	amended	Ch. 449	HB 597
69-3-711	amended	Ch. 449	HB 597
69-3-712	amended	Ch. 449	HB 597
69-3-713	amended	Ch. 449	HB 597
69-3-1202	amended	Ch. 449	HB 597
69-3-1203	amended	Ch. 449	HB 597
69-3-1204	amended	Ch. 449	HB 597
69-3-1205	amended	Ch. 449	HB 597
69-3-1206	amended	Ch. 449	HB 597
69-3-1207	enacted	Ch. 449	HB 597
69-3-1208	enacted	Ch. 449	HB 597
69-3-1209	enacted	Ch. 449	HB 597
69-3-1601	enacted	Ch. 442	HB 467
69-3-1602	enacted	Ch. 442	HB 467
69-3-1603	enacted	Ch. 442	HB 467

69-3-1604	enacted	Ch. 442	HB 467
69-3-1605	enacted	Ch. 442	HB 467
69-3-1606	enacted	Ch. 442	HB 467
69-3-1607	enacted	Ch. 442	HB 467
69-3-1608	enacted	Ch. 442	HB 467
69-3-1611	enacted	Ch. 442	HB 467
69-3-1612	enacted	Ch. 442	HB 467
69-3-1613	enacted	Ch. 442	HB 467
69-3-1616	enacted	Ch. 442	HB 467
69-3-1617	enacted	Ch. 442	HB 467
69-3-1618	enacted	Ch. 442	HB 467
69-3-1619	enacted	Ch. 442	HB 467
69-3-1620	enacted	Ch. 442	HB 467
69-3-1621	enacted	Ch. 442	HB 467
69-3-1622	enacted	Ch. 442	HB 467
69-3-1623	enacted	Ch. 442	HB 467
69-4-1001	enacted	Ch. 179	HB 267
69-4-1002	enacted	Ch. 179	HB 267
69-4-1003	enacted	Ch. 179	HB 267
69-4-1004	enacted	Ch. 179	HB 267
69-5-123	amended	Ch. 3	HB 60
69-8-419	repealed 7/1/2020	Ch. 449	HB 597
69-8-420	repealed 7/1/2020	Ch. 449	HB 597
69-8-421	amended	Ch. 449	HB 597
69-8-801	enacted	Ch. 441	HB 456
69-8-802	enacted	Ch. 441	HB 456
69-8-803	enacted	Ch. 441	HB 456
69-8-804	enacted	Ch. 441	HB 456
70-6-602	amended	Ch. 67	HB 160
70-6-603	amended	Ch. 67	HB 160
70-6-604	amended	Ch. 67	HB 160
70-6-606	amended	Ch. 67	HB 160
70-6-607	amended	Ch. 67	HB 160
70-9-803	amended	Ch. 317	SB 253
70-17-901	enacted	Ch. 339	SB 300
70-23-102	amended	Ch. 323	SB 276
70-23-507	enacted	Ch. 339	SB 300
70-23-1101	enacted	Ch. 323	SB 276
70-23-1102	enacted	Ch. 323	SB 276
70-23-1103	enacted	Ch. 323	SB 276
70-23-1104	enacted	Ch. 323	SB 276
70-23-1105	enacted	Ch. 323	SB 276
70-28-112	amended	Ch. 148	SB 82
72-1-103	amended	Ch. 313	SB 225
72-1-201	amended	Ch. 313	SB 225
72-1-208	amended	Ch. 313	SB 225
72-1-302	amended	Ch. 313	SB 225
72-1-303	amended	Ch. 313	SB 225
72-1-101(2)	enacted	Ch. 313	SB 225
72-2-112	amended	Ch. 313	SB 225
72-2-114	amended	Ch. 313	SB 225
72-2-116	amended	Ch. 313	SB 225
72-2-118	amended	Ch. 313	SB 225
72-2-125	enacted	Ch. 313	SB 225
72-2-215	repealed	Ch. 313	SB 225
72-2-221	repealed	Ch. 313	SB 225

72-2-222	repealed	Ch. 313	SB 225
72-2-223 ..	amended and renumbered 72-2-242	Ch. 313	SB 225
72-2-224	repealed	Ch. 313	SB 225
72-2-225 ..	amended and renumbered 72-2-241	Ch. 313	SB 225
72-2-226	repealed	Ch. 313	SB 225
72-2-227	repealed	Ch. 313	SB 225
72-2-228 ..	amended and renumbered 72-2-244	Ch. 313	SB 225
72-2-230 ..	amended and renumbered 72-2-240	Ch. 313	SB 225
72-2-231	enacted	Ch. 313	SB 225
72-2-232	enacted	Ch. 313	SB 225
72-2-233	enacted	Ch. 313	SB 225
72-2-234	enacted	Ch. 313	SB 225
72-2-235	enacted	Ch. 313	SB 225
72-2-236	enacted	Ch. 313	SB 225
72-2-237	enacted	Ch. 313	SB 225
72-2-238	enacted	Ch. 313	SB 225
72-2-239	enacted	Ch. 313	SB 225
72-2-240	formerly 72-2-230	Ch. 313	SB 225
72-2-241	formerly 72-2-225	Ch. 313	SB 225
72-2-242	formerly 72-2-223	Ch. 313	SB 225
72-2-243	enacted	Ch. 313	SB 225
72-2-244	formerly 72-2-228	Ch. 313	SB 225
72-2-412	amended	Ch. 313	SB 225
72-2-413	amended	Ch. 313	SB 225
72-2-415	amended	Ch. 313	SB 225
72-2-613	amended	Ch. 313	SB 225
72-2-616	amended	Ch. 313	SB 225
72-2-712	amended	Ch. 313	SB 225
72-2-716	amended	Ch. 313	SB 225
72-2-717	amended	Ch. 313	SB 225
72-2-811	repealed	Ch. 313	SB 225
72-2-813	amended	Ch. 312	SB 205
	amended	Ch. 313	SB 225
72-2-814	amended	Ch. 313	SB 225
72-2-815	enacted	Ch. 313	SB 225
72-2-816	enacted	Ch. 313	SB 225
72-2-817	enacted	Ch. 313	SB 225
72-2-818	enacted	Ch. 313	SB 225
72-2-819	enacted	Ch. 313	SB 225
72-2-820	enacted	Ch. 313	SB 225
72-2-821	enacted	Ch. 313	SB 225
72-2-822	enacted	Ch. 313	SB 225
72-2-823	enacted	Ch. 313	SB 225
72-2-824	enacted	Ch. 313	SB 225
72-2-825	enacted	Ch. 313	SB 225
72-2-826	enacted	Ch. 313	SB 225
72-2-827	enacted	Ch. 313	SB 225
72-2-828	enacted	Ch. 313	SB 225
72-2-829	enacted	Ch. 313	SB 225
72-2-830	enacted	Ch. 313	SB 225
72-2-831	enacted	Ch. 313	SB 225
72-2-832	enacted	Ch. 313	SB 225
72-2-833	enacted	Ch. 313	SB 225
72-3-102	amended	Ch. 313	SB 225
72-3-112	amended	Ch. 313	SB 225
72-3-113	repealed	Ch. 313	SB 225

72-3-122	amended	Ch. 313	SB	225
72-3-131	amended	Ch. 313	SB	225
72-3-201	amended	Ch. 313	SB	225
72-3-202	amended	Ch. 313	SB	225
72-3-203	amended	Ch. 313	SB	225
72-3-309	repealed	Ch. 313	SB	225
72-3-321	enacted	Ch. 313	SB	225
72-3-401	amended	Ch. 313	SB	225
72-3-404	amended	Ch. 313	SB	225
72-3-502	amended	Ch. 313	SB	225
72-3-504	amended	Ch. 313	SB	225
72-3-514	amended	Ch. 313	SB	225
72-3-607	amended	Ch. 313	SB	225
72-3-611	amended	Ch. 313	SB	225
72-3-613	amended	Ch. 313	SB	225
72-3-618	amended	Ch. 313	SB	225
72-3-619	enacted	Ch. 313	SB	225
72-3-631	amended	Ch. 313	SB	225
72-3-633	repealed	Ch. 313	SB	225
72-3-803	amended	Ch. 313	SB	225
72-3-815	amended	Ch. 313	SB	225
72-3-917	amended	Ch. 313	SB	225
72-3-1012	amended	Ch. 313	SB	225
72-3-1013	amended	Ch. 313	SB	225
72-4-203	amended	Ch. 313	SB	225
72-6-111	amended	Ch. 313	SB	225
72-6-112	enacted	Ch. 313	SB	225
72-6-121	repealed	Ch. 313	SB	225
72-6-123	repealed	Ch. 313	SB	225
72-6-401	enacted	Ch. 313	SB	225
72-6-402	enacted	Ch. 313	SB	225
72-6-403	enacted	Ch. 313	SB	225
72-6-404	enacted	Ch. 313	SB	225
72-6-405	enacted	Ch. 313	SB	225
72-6-406	enacted	Ch. 313	SB	225
72-6-407	enacted	Ch. 313	SB	225
72-6-408	enacted	Ch. 313	SB	225
72-6-409	enacted	Ch. 313	SB	225
72-6-410	enacted	Ch. 313	SB	225
72-6-411	enacted	Ch. 313	SB	225
72-6-412	enacted	Ch. 313	SB	225
72-6-413	enacted	Ch. 313	SB	225
72-6-414	enacted	Ch. 313	SB	225
72-6-415	enacted	Ch. 313	SB	225
72-6-416	enacted	Ch. 313	SB	225
72-6-417	enacted	Ch. 313	SB	225
72-6-418	enacted	Ch. 313	SB	225
72-7-305	amended	Ch. 200	HB	461
72-7-401	amended	Ch. 313	SB	225
72-7-502	amended	Ch. 200	HB	461
72-15-301	amended	Ch. 313	SB	225
72-30-213	amended	Ch. 3	HB	60
75-1-208	amended	Ch. 80	HB	55
75-2-103	amended	Ch. 3	HB	60
75-5-320	enacted	Ch. 251	SB	48
75-5-516	amended	Ch. 436	HB	328

75-7-112	amended	Ch. 124	HB 383
75-7-113	amended	Ch. 124	HB 383
75-8-107	amended	Ch. 262	SB 264
75-10-112	amended	Ch. 187	HB 331
75-10-501	amended	Ch. 427	HB 15
75-10-521	amended	Ch. 427	HB 15
75-10-733	amended	Ch. 58	HB 56
75-10-736	amended	Ch. 58	HB 56
75-10-1601	amended	Ch. 76	HB 30
75-10-1602	repealed	Ch. 76	HB 30
75-10-1604	amended	Ch. 76	HB 30
75-20-104	amended	Ch. 447	HB 535
75-20-201	amended	Ch. 447	HB 535
75-20-207	amended	Ch. 447	HB 535
75-20-208	amended	Ch. 447	HB 535
75-20-211	amended	Ch. 447	HB 535
75-20-301	amended	Ch. 447	HB 535
75-20-303	amended	Ch. 447	HB 535
75-20-304	amended	Ch. 447	HB 535
75-20-1202	amended	Ch. 447	HB 535
75-26-301	amended	Ch. 304	SB 93
75-26-304	amended	Ch. 304	SB 93
75-26-308	amended	Ch. 304	SB 93
75-26-309	amended	Ch. 304	SB 93
75-26-310	amended	Ch. 304	SB 93
76-3-203	amended	Ch. 323	SB 276
76-3-207	amended	Ch. 34	HB 124
76-3-211	enacted	Ch. 34	HB 124
76-3-622	amended	Ch. 80	HB 55
76-4-102	amended	Ch. 80	HB 55
76-4-103	amended	Ch. 80	HB 55
76-4-104	amended	Ch. 80	HB 55
76-4-105	amended	Ch. 80	HB 55
76-4-107	amended	Ch. 80	HB 55
76-4-111	amended	Ch. 80	HB 55
	amended	Ch. 323	SB 276
76-4-113	amended	Ch. 80	HB 55
76-4-114	amended	Ch. 80	HB 55
76-4-121	amended	Ch. 80	HB 55
76-4-122	amended	Ch. 80	HB 55
76-4-125	amended	Ch. 3	HB 60
	amended	Ch. 80	HB 55
76-4-127	amended	Ch. 80	HB 55
76-4-130	amended	Ch. 80	HB 55
76-4-131	amended	Ch. 80	HB 55
76-4-133	amended	Ch. 80	HB 55
76-13-151	amended	Ch. 376	HB 34
76-13-414	amended	Ch. 18	HB 119
76-17-102	amended	Ch. 221	SB 44
76-22-105	amended	Ch. 267	SB 299
76-22-111	amended	Ch. 267	SB 299
76-22-115	enacted	Ch. 267	SB 299
76-22-116	enacted	Ch. 267	SB 299
76-22-117	enacted	Ch. 267	SB 299
76-22-118	amended	Ch. 267	SB 299
77-3-411	amended	Ch. 206	SB 41

77-5-201	amended	Ch. 82	HB 70
77-5-208	repealed	Ch. 407	HB 441
77-5-212	amended	Ch. 82	HB 70
80-4-402	amended	Ch. 302	SB 73
80-4-405	amended	Ch. 302	SB 73
80-4-426	amended	Ch. 79	HB 50
80-4-427	amended	Ch. 79	HB 50
80-4-428	amended	Ch. 79	HB 50
80-4-429	amended	Ch. 79	HB 50
80-4-601	amended	Ch. 302	SB 73
80-4-604	amended	Ch. 302	SB 73
80-5-120	amended	Ch. 92	HB 142
80-6-102	amended	Ch. 379	HB 443
80-6-106	amended	Ch. 379	HB 443
80-6-114	amended	Ch. 379	HB 443
80-6-201	amended	Ch. 379	HB 443
80-7-105	amended	Ch. 92	HB 142
80-7-801	amended	Ch. 92	HB 142
80-7-903	amended	Ch. 92	HB 142
80-7-1004	amended	Ch. 356	HB 411
80-7-1006	amended	Ch. 472	HB 608
80-7-1015	amended	Ch. 472	HB 608
80-7-1030	enacted	Ch. 472	HB 608
80-8-102	amended	Ch. 3	HB 60
80-8-105	amended	Ch. 349	HB 221
80-8-209	amended	Ch. 349	HB 221
80-9-101	amended	Ch. 365	HB 607
80-9-201	amended	Ch. 365	HB 607
80-9-202	amended	Ch. 365	HB 607
80-9-206	amended	Ch. 365	HB 607
80-11-206	amended	Ch. 84	HB 151
80-11-211	amended	Ch. 64	HB 102
80-11-801	repealed	Ch. 39	HB 51
80-11-901	amended	Ch. 343	HB 52
80-11-1004	amended	Ch. 64	HB 102
80-11-1008	amended	Ch. 64	HB 102
80-11-1101	enacted	Ch. 288	SB 176
80-12-203	amended	Ch. 271	SB 325
80-18-101	amended	Ch. 289	SB 177
80-18-102	amended	Ch. 289	SB 177
80-18-103	amended	Ch. 289	SB 177
80-18-106	amended	Ch. 289	SB 177
80-18-107	amended	Ch. 289	SB 177
80-18-111	amended	Ch. 289	SB 177
81-1-112	amended	Ch. 343	HB 52
81-2-102	amended	Ch. 87	SB 57
81-2-401	repealed	Ch. 125	HB 112
81-2-402	repealed	Ch. 125	HB 112
81-2-403	repealed	Ch. 125	HB 112
81-2-703	amended	Ch. 125	HB 112
81-7-123	enacted	Ch. 434	HB 291
81-7-504	amended	Ch. 301	SB 67
81-9-217	amended	Ch. 186	HB 327
81-9-233	amended	Ch. 86	SB 56
81-9-235	repealed	Ch. 86	SB 56
82-1-501	enacted	Ch. 136	HB 229

82-4-222	amended	Ch. 484	SB 201
82-4-338	amended	Ch. 458	HB 722
82-4-340	amended	Ch. 458	HB 722
82-4-341	amended	Ch. 458	HB 722
82-4-353	amended	Ch. 458	HB 722
82-4-405	amended	Ch. 334	SB 343
82-4-424	amended	Ch. 334	SB 343
82-4-425	amended	Ch. 334	SB 343
82-4-426	amended	Ch. 334	SB 343
82-4-427	amended	Ch. 334	SB 343
82-4-431	amended	Ch. 334	SB 343
82-4-432	amended	Ch. 334	SB 343
82-4-433	amended	Ch. 334	SB 343
82-4-434	amended	Ch. 334	SB 343
82-4-437	amended	Ch. 334	SB 343
82-4-438	amended	Ch. 334	SB 343
82-4-440	enacted	Ch. 334	SB 343
82-11-111	amended	Ch. 3	HB 60
82-11-131	amended	Ch. 414	HB 656
82-11-135	amended	Ch. 414	HB 656
85-1-613	amended	Ch. 271	SB 325
85-2-102	amended	Ch. 59	HB 57
85-2-114	amended	Ch. 266	SB 296
85-2-154	enacted	Ch. 298	SB 32
85-2-155	enacted	Ch. 298	SB 32
85-2-231	amended	Ch. 211	SB 151
85-2-270	amended	Ch. 72	HB 220
85-2-302	amended	Ch. 192	HB 505
	amended	Ch. 209	SB 81
85-2-311	amended	Ch. 38	HB 45
85-2-329	amended	Ch. 59	HB 57
85-2-340	amended	Ch. 59	HB 57
85-2-342	amended	Ch. 59	HB 57
85-2-402	amended	Ch. 78	HB 44
85-2-420	amended	Ch. 222	SB 49
85-2-422	repealed	Ch. 59	HB 57
85-2-436	amended	Ch. 485	SB 247
85-2-441	enacted	Ch. 432	HB 286
85-2-525	amended	Ch. 465	HB 341
85-2-526	enacted	Ch. 465	HB 341
85-2-527	enacted	Ch. 465	HB 341
85-7-1710	amended	Ch. 225	SB 116
87-1-249	amended	Ch. 63	HB 94
87-1-264	amended	Ch. 63	HB 94
87-1-265	amended	Ch. 63	HB 94
87-1-266	amended	Ch. 19	HB 104
	amended	Ch. 63	HB 94
	amended	Ch. 221	SB 44
87-1-267	repealed	Ch. 63	HB 94
87-1-269	amended	Ch. 63	HB 94
	amended	Ch. 296	SB 341
87-1-270	amended	Ch. 63	HB 94
87-1-271	amended	Ch. 63	HB 94
87-1-290	amended	Ch. 63	HB 94
	amended	Ch. 106	HB 239
87-1-295	enacted	Ch. 296	SB 341

87-1-296	enacted	Ch. 296	SB 341
87-1-297	enacted	Ch. 296	SB 341
87-1-301	amended	Ch. 378	HB 311
87-1-506	amended	Ch. 122	HB 348
87-2-104	amended	Ch. 381	HB 497
87-2-115	amended	Ch. 221	SB 44
	amended	Ch. 280	HB 397
87-2-116	amended	Ch. 63	HB 94
87-2-117	amended	Ch. 208	SB 79
	amended	Ch. 360	HB 432
87-2-119	amended	Ch. 238	SB 256
87-2-124	enacted	Ch. 106	HB 239
87-2-130	amended	Ch. 356	HB 411
87-2-201	amended	Ch. 221	SB 44
87-2-304	amended	Ch. 221	SB 44
87-2-307	amended	Ch. 221	SB 44
87-2-308	amended	Ch. 221	SB 44
87-2-501	amended	Ch. 381	HB 497
87-2-504	amended	Ch. 221	SB 44
87-2-505	amended	Ch. 221	SB 44
87-2-510	amended	Ch. 221	SB 44
87-2-511	amended	Ch. 114	SB 144
87-2-513	amended	Ch. 37	HB 43
	amended	Ch. 63	HB 94
87-2-514	amended	Ch. 221	SB 44
87-2-519	enacted	Ch. 378	HB 311
87-2-523	amended	Ch. 377	HB 280
	amended	Ch. 405	HB 407
87-2-524	amended	Ch. 351	HB 281
87-2-701	amended	Ch. 221	SB 44
87-2-711	amended	Ch. 221	SB 44
87-2-801	amended	Ch. 221	SB 44
87-2-803	amended	Ch. 221	SB 44
87-2-805	amended	Ch. 221	SB 44
87-2-815	amended	Ch. 126	HB 275
87-2-817	amended (void - sec. 20, Ch. 221)	Ch. 221	SB 44
	amended	Ch. 231	SB 167
87-2-903	amended	Ch. 356	HB 411
	amended	Ch. 434	HB 291
87-3-115	amended	Ch. 238	SB 256
87-3-310	enacted	Ch. 238	SB 256
87-3-315	enacted	Ch. 244	SB 344
87-3-601	enacted	Ch. 103	HB 29
87-3-602	enacted	Ch. 103	HB 29
87-3-603	enacted	Ch. 103	HB 29
87-3-604	enacted	Ch. 103	HB 29
87-4-601	amended	Ch. 3	HB 60
87-4-603	amended	Ch. 277	HB 205
	amended	Ch. 278	HB 224
87-4-606	amended	Ch. 277	HB 205
87-4-607	amended	Ch. 277	HB 205
87-4-915	repealed	Ch. 103	HB 29
87-6-101	amended	Ch. 103	HB 29
87-6-202	amended	Ch. 238	SB 256
87-6-218	amended	Ch. 238	SB 256
87-6-220	repealed	Ch. 103	HB 29

87-6-222	enacted	Ch. 259	SB 349
87-6-240	enacted	Ch. 244	SB 344
87-6-302	amended	Ch. 221	SB 44
87-6-304	amended	Ch. 351	HB 281
87-6-404	amended	Ch. 103	HB 29
	amended	Ch. 378	HB 311
87-6-406	amended	Ch. 272	SB 333
87-6-407	enacted	Ch. 238	SB 256
87-6-411	amended	Ch. 238	SB 256
90-1-101	amended	Ch. 363	HB 523
90-1-105	amended	Ch. 363	HB 523
	amended	Ch. 474	HB 632
90-1-112	amended	Ch. 363	HB 523
90-1-116	amended	Ch. 471	HB 558
90-1-120	enacted	Ch. 363	HB 523
90-1-135	amended	Ch. 356	HB 411
90-1-144	amended	Ch. 363	HB 523
90-1-201	amended	Ch. 375	HB 19
90-3-1001	repealed	Ch. 343	HB 52
90-3-1002	repealed	Ch. 343	HB 52
90-3-1003	repealed	Ch. 343	HB 52
90-3-1005	repealed	Ch. 343	HB 52
90-3-1006	repealed	Ch. 343	HB 52
90-4-625	amended	Ch. 469	HB 553
90-4-1102	amended	Ch. 311	SB 195
90-4-1110	amended	Ch. 311	SB 195
90-4-1112	amended	Ch. 311	SB 195
90-4-1113	amended	Ch. 311	SB 195
90-4-1114	amended	Ch. 311	SB 195
90-6-132	amended	Ch. 460	HB 16
90-6-136	amended	Ch. 460	HB 16
90-6-137	enacted	Ch. 460	HB 16
90-6-210	amended	Ch. 299	SB 51
90-6-304	amended	Ch. 185	HB 319
90-6-309	amended	Ch. 3	HB 60
90-6-603	amended	Ch. 190	HB 422
90-6-701	amended	Ch. 476	HB 652
90-6-1001	amended	Ch. 414	HB 656
90-9-102	amended	Ch. 439	HB 431
90-9-103	amended	Ch. 439	HB 431
90-9-202	amended	Ch. 343	HB 52
	amended	Ch. 439	HB 431
90-9-203	amended	Ch. 439	HB 431
90-9-306	amended	Ch. 439	HB 431
90-9-501	enacted	Ch. 439	HB 431
90-9-502	enacted	Ch. 439	HB 431
90-9-503	enacted	Ch. 439	HB 431
90-9-504	enacted	Ch. 439	HB 431
90-9-505	enacted	Ch. 439	HB 431
90-14-110	enacted	Ch. 431	HB 260

SESSION LAWS AFFECTED

<u>Laws Affected</u>	<u>Action</u>	<u>Chapter No.</u>	<u>Bill No.</u>
Laws of 1997			
Ch. 537, sec. 9.....	amended.....	Ch. 254.....	SB 111
Special Laws of May 2000			
Ch. 10, sec. 10.....	amended.....	Ch. 343.....	HB 52
Laws of 2001			
Ch. 226, sec. 5.....	amended.....	Ch. 254.....	SB 111
Laws of 2003			
Ch. 481, sec. 3, 6.....	amended.....	Ch. 343.....	HB 52
Ch. 569, sec. 3.....	repealed.....	Ch. 281.....	HB 524
Laws of 2005			
Ch. 4, sec. 7.....	amended.....	Ch. 254.....	SB 111
Ch. 560, sec. 2(4).....	amended.....	Ch. 459.....	SB 338
Laws of 2007			
Ch. 208, sec. 2-4, 7.....	amended.....	Ch. 254.....	SB 111
Laws of 2009			
Ch. 286, sec. 43.....	repealed.....	Ch. 97.....	HB 259
Ch. 459, sec. 2, 3.....	amended.....	Ch. 343.....	HB 52
Ch. 478, sec. 20.....	amended.....	Ch. 459.....	SB 338
Laws of 2011			
Ch. 241, sec. 20.....	repealed.....	Ch. 130.....	SB 61
Ch. 418, sec. 29.....	repealed.....	Ch. 247.....	SB 12
Laws of 2013			
Ch. 204, sec. 6.....	repealed.....	Ch. 35.....	HB 143
Ch. 317, sec. 2-8, 11.....	amended.....	Ch. 254.....	SB 111
Ch. 400, sec. 38.....	repealed.....	Ch. 247.....	SB 12
Ch. 410, sec. 7.....	amended.....	Ch. 77.....	HB 33
Laws of 2015			
Ch. 315, sec. 5.....	repealed.....	Ch. 371.....	HB 757
Ch. 357, sec. 2.....	repealed.....	Ch. 130.....	SB 61
Ch. 368, sec. 28.....	amended.....	Ch. 456.....	HB 684
Ch. 368, sec. 28.....	amended.....	Ch. 415.....	HB 658
Ch. 402, sec. 2.....	repealed.....	Ch. 249.....	SB 37
Ch. 422, sec. 5.....	amended.....	Ch. 408.....	HB 525
Ch. 426, sec. 3, 7.....	amended.....	Ch. 77.....	HB 33
Ch. 427, sec. 9, 10.....	amended.....	Ch. 50.....	SB 75
Ch. 442, sec. 10.....	amended.....	Ch. 171.....	HB 41
Laws of 2017			
Ch. 13, sec. 1, 2.....	repealed.....	Ch. 130.....	SB 61
Ch. 55, sec. 12.....	amended.....	Ch. 3.....	HB 60
Ch. 232, sec. 2-4, 9.....	amended.....	Ch. 77.....	HB 33
Ch. 244, sec. 14.....	repealed.....	Ch. 13.....	HB 63
Ch. 244, sec. 17.....	amended.....	Ch. 13.....	HB 63

Ch. 344, sec. 13.....	repealed.....	Ch. 80.....	HB 55
Ch. 367, sec. 32.....	amended.....	Ch. 172.....	HB 150
Ch. 387, sec. 7.....	repealed.....	Ch. 356.....	HB 411
Ch. 387, sec. 19, 21.....	amended.....	Ch. 356.....	HB 411
Ch. 387, sec. 21.....	amended.....	Ch. 3.....	HB 60
Ch. 416, sec. 20.....	amended.....	Ch. 475.....	HB 643
Ch. 429, sec. 35.....	amended.....	Ch. 24.....	HB 159
Ch. 429, sec. 35.....	amended.....	Ch. 10.....	SB 10

Special Laws of November 2017

Ch. 5, sec. 2, 5, 8, 10, 12, 14, 17.....	repealed.....	Ch. 342.....	HB 35
Ch. 6, sec. 28.....	amended.....	Ch. 395.....	HB 688
Ch. 8, sec. 11.....	amended.....	Ch. 204.....	HB 3

SENATE BILL TO CHAPTER NUMBER

<u>Bill No.</u>	<u>Chapter No.</u>	<u>Bill No.</u>	<u>Chapter No.</u>	<u>Bill No.</u>	<u>Chapter No.</u>
SB 1	Ch. 144	SB 73	Ch. 302	SB 163	Ch. 159
SB 2	Ch. 73	SB 74	Ch. 287	SB 165	Ch. 230
SB 3	Ch. 145	SB 75	Ch. 50	SB 167	Ch. 231
SB 5	Ch. 246	SB 76	Ch. 303	SB 171	Ch. 310
SB 9	Ch. 128	SB 77	Ch. 51	SB 175	Ch. 54
SB 10	Ch. 10	SB 79	Ch. 208	SB 176	Ch. 288
SB 11	Ch. 16	SB 81	Ch. 209	SB 177	Ch. 289
SB 12	Ch. 247	SB 82	Ch. 148	SB 178	Ch. 290
SB 14	Ch. 146	SB 83	Ch. 88	SB 182	Ch. 160
SB 16	Ch. 9	SB 84	Ch. 113	SB 183	Ch. 232
SB 20	Ch. 74	SB 85	Ch. 101	SB 191	Ch. 256
SB 24	Ch. 219	SB 88	Ch. 132	SB 192	Ch. 291
SB 25	Ch. 57	SB 89	Ch. 149	SB 195	Ch. 311
SB 26	Ch. 205	SB 90	Ch. 252	SB 196	Ch. 55
SB 28	Ch. 8	SB 91	Ch. 90	SB 197	Ch. 233
SB 30	Ch. 297	SB 92	Ch. 253	SB 200	Ch. 257
SB 32	Ch. 298	SB 93	Ch. 304	SB 201	Ch. 484
SB 35	Ch. 248	SB 94	Ch. 52	SB 204	Ch. 258
SB 36	Ch. 129	SB 98	Ch. 150	SB 205	Ch. 312
SB 37	Ch. 249	SB 101	Ch. 151	SB 207	Ch. 115
SB 38	Ch. 220	SB 104	Ch. 53	SB 212	Ch. 161
SB 39	Ch. 48	SB 111	Ch. 254	SB 213	Ch. 213
SB 40	Ch. 250	SB 114	Ch. 255	SB 218	Ch. 234
SB 41	Ch. 206	SB 115	Ch. 152	SB 220	Ch. 235
SB 43	Ch. 286	SB 116	Ch. 225	SB 222	Ch. 236
SB 44	Ch. 221	SB 119	Ch. 153	SB 223	Ch. 162
SB 46	Ch. 147	SB 124	Ch. 226	SB 225	Ch. 313
SB 48	Ch. 251	SB 125	Ch. 210	SB 226	Ch. 163
SB 49	Ch. 222	SB 130	Ch. 154	SB 231	Ch. 237
SB 51	Ch. 299	SB 132	Ch. 305	SB 232	Ch. 314
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?Ch. 292SB 265
 (§§ 4, 6, 7(1)(b), 9, 11, 13, 19, 25
 and 29, Effective on the earlier
 of July 1, 2020, or the date
 DPHHS certifies to the code
 commissioner, the seed-to-sale
 tracking system requirements
 as described in section 37(4).)

SESSION LAW TO CODE

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	3	7-15-4286	41	Sec. 21, Ch.	14	1	Repealer	
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	7	15-10-420		commissioner	16	1	20-1-101	
	8	15-24-1410	43	Directions		2	20-5-101	
	9	15-30-3313		to code		3	20-7-411	
10	15-36-331			commissioner	17	1	60-1-230	
11	15-39-110	4	1	61-6-301		2	Codification	
12	15-70-441		2	61-6-303			instruction	
13	16-11-102		3	Saving clause		3	Effective date	
14	17-2-107		4	Effective date	18	1	76-13-414	
15	18-2-101	5	1	46-8-114		2	Effective date	
16	18-2-103		2	Repealer		3	Applicability	
17	20-7-306		3	Effective date	19	1	87-1-266	
18	20-9-502	6	1	47-1-111		2	Effective date	
19	20-25-211		2	Effective date	20	1	53-24-301	
20	20-25-212	7	1	46-18-1101	21	1	39-12-103	
21	30-20-204		2	53-1-203		2	53-6-1306	
22	32-3-611		3	Repealer		3	Repealer	
23	37-7-605	8	1	15-36-304		4	Contingent	
24	37-50-302		2	Effective date			voidness	
25	41-3-802		3	Applicability		5	Effective date	
26	41-3-803	9	1	20-3-361	22	1	44-5-202	
27	46-18-201		2	20-3-362		2	46-18-1101	
28	47-1-121		3	20-7-457	23	1	44-2-504	
29	50-32-222		4	20-9-321		2	Notification	
30	50-50-126	10	1	20-9-525			to tribal	
31	53-1-402		2	Sec. 35, Ch.			governments	
32	69-5-123			429, L. 2017	24	1	20-9-306	
33	72-30-213		3	Effective date		2	20-9-635	
34	75-2-103	11	1	Repealer		3	Sec. 35, Ch.	
35	76-4-125		2	Effective date			429, L. 2017	

	4	Effective dates		2	Effective date	48	1	2-9-211
	5	Applicability	38	1	85-2-311		2	33-2-301
25	1	33-10-202	39	1	Repealer		3	33-2-302
	2	33-10-205		2	Effective date		4	Effective date
	3	33-10-210	40	1	46-4-105	49	1	37-19-308
	4	33-10-215		2	Effective date		2	10-2-111
	5	33-10-216	41	1	39-7-303		3	37-19-101
	6	33-10-224		2	39-71-118		4	37-19-302
	7	33-10-227		3	40-4-215		5	37-19-303
	8	33-30-102		4	52-2-710		6	37-19-402
	9	33-31-111		5	53-2-201		7	37-19-801
	10	Saving clause		6	53-2-211		8	37-19-802
	11	Effective date		7	53-2-215		9	37-19-803
	12	Applicability		8	53-2-606		10	37-19-807
26	1	33-6-102		9	53-2-613		11	37-19-808
	2	33-6-103		10	53-2-901		12	37-19-823
	3	33-22-201		11	53-2-902		13	37-19-827
	4	33-22-202		12	53-2-903		14	Repealer
	5	33-22-221		13	53-3-115		15	Codification
	6	Repealer		14	53-4-201			instruction
	7	Effective date		15	53-4-202	50	1	37-1-306
27	1	39-51-2302		16	53-4-212		2	37-50-302
	2	Effective date		17	53-4-221		3	37-50-305
28	1	15-30-2643		18	53-4-231		4	Sec. 9, Ch.
	2	Repealer		19	53-4-232			427, L. 2015
	3	Effective date		20	53-4-233		5	Sec. 10, Ch.
								427, L. 2015
29	1	16-1-411		21	53-4-241		6	Effective date
	2	16-3-411		22	53-4-244			
	3	16-4-1102		23	53-4-602	51	1	2-6-1017
30	1	15-30-2110		24	53-4-611		2	37-51-302
	2	53-25-104		25	53-4-613		3	39-51-2207
	3	53-25-109		26	53-4-702		4	50-73-205
	4	Effective date		27	53-4-704		5	50-73-206
31	1	33-32-419		28	53-4-705		6	50-73-209
	2	33-32-416		29	53-4-706		7	Repealer
	3	33-32-421		30	53-4-717		8	Transfer of
	4	Codification		31	53-6-101			funds
		instruction		32	Repealer		9	Effective date
32	1	32-7-115		33	Effective date	52	1	37-8-410
	2	32-7-124	42	1	7-13-121		2	Codification
	3	Effective date		2	Effective date			instruction
33	1	3-1-708	43	1	40-1-202	53	1	7-6-2401
	2	Effective date		2	40-1-203	54	1	60-1-225
34	1	76-3-211		3	40-1-311		2	Codification
	2	76-3-207		4	Repealer			instruction
	3	Codification		5	Effective date		3	Effective date
		instruction		6	Applicability	55	1	60-1-231
35	1	Repealer	44	1	45-8-322		2	Codification
	2	Effective date		2	Repealer			instruction
36	1	15-24-202	45	1	17-6-103		3	Effective date
	2	15-24-206		2	Effective date	56	1	45-8-213
	3	15-24-208	46	1	37-19-302	57	1	23-5-419
	4	15-24-210		2	Effective date		2	23-5-112
	5	15-24-211	47	1	35-18-316		3	23-5-152
37	1	87-2-513		2	Effective date		4	23-5-153

	5	23-5-405		8	87-1-271		10	Notification
	6	23-5-502		9	87-1-290			to tribal
	7	23-5-503		10	87-2-116			governments
	8	Codification		11	87-2-513		11	Codification
		instruction		12	Repealer			instruction
58	1	75-10-733		13	Effective date		12	Saving clause
	2	75-10-736	64	1	80-11-211		13	Effective date
	3	Effective date		2	80-11-1004	75	1	32-1-221
	4	Applicability		3	80-11-1008		2	32-1-222
59	1	85-2-102		4	Effective date		3	32-1-378
	2	85-2-329	65	1	32-9-171		4	32-1-379
	3	85-2-340		2	32-9-172		5	32-1-380
	4	85-2-342		3	32-9-103		6	20-3-324
	5	Repealer		4	32-9-120		7	32-1-109
60	1	33-1-604		5	32-9-122		8	32-1-115
	2	33-1-605		6	32-9-123		9	32-1-202
	3	33-1-606		7	32-9-128		10	32-1-204
	4	33-1-613		8	32-9-130		11	32-1-211
	5	33-2-115		9	32-9-133		12	32-1-212
	6	33-2-315		10	32-9-141		13	32-1-232
	7	33-2-1216		11	32-9-149		14	32-1-234
	8	33-2-1701		12	32-9-160		15	32-1-308
	9	33-6-101		13	32-9-170		16	32-1-325
	10	33-19-403		14	Codification		17	32-1-370
	11	33-28-102			instruction		18	32-1-371
	12	33-28-207	66	1	20-9-344		19	32-1-372
	13	33-31-111		2	Effective date		20	32-1-374
	14	Repealer	67	1	70-6-602		21	32-1-384
	15	Codification		2	70-6-603		22	32-1-422
		instruction		3	70-6-604		23	32-1-452
	16	Effective date		4	70-6-606		24	32-1-468
61	1	2-18-103		5	70-6-607		25	32-1-506
	2	47-1-105	68	1	32-1-234		26	32-1-532
	3	47-1-201		2	32-3-207		27	32-1-911
	4	47-1-301	69	1	20-15-204		28	32-3-106
	5	47-1-401		2	20-15-209		29	32-6-103
	6	Effective date	70	1	15-17-323		30	Repealer
62	1	33-1-305	71	1	15-36-304		31	Codification
	2	33-1-603		2	Effective date			instruction
	3	33-1-1302	72	1	85-2-270	76	1	75-10-1601
	4	33-2-104	73	1	2-7-504		2	75-10-1604
	5	33-2-1106		2	7-6-609		3	Repealer
	6	33-2-1113		3	7-6-611		4	Effective date
	7	33-3-105		4	Effective date	77	1	Sec. 7, Ch.
	8	33-3-202		5	Applicability			410, L. 2013
	9	33-3-601	74	1	7-33-4115		2	Sec. 3, Ch.
	10	33-15-1108		2	7-2-4734			426, L. 2015
	11	33-32-306		3	7-33-2101		3	Sec. 7, Ch.
63	1	27-1-754		4	7-33-2102			426, L. 2015
	2	87-1-249		5	7-33-2104		4	Sec. 2, Ch.
	3	87-1-264		6	7-33-2120			232, L. 2017
	4	87-1-265		7	7-33-2125		5	Sec. 3, Ch.
	5	87-1-266		8	7-33-2128			232, L. 2017
	6	87-1-269		9	7-33-4101		6	Sec. 4, Ch.
	7	87-1-270						232, L. 2017

7	Sec. 9, Ch. 232, L. 2017	88	1	33-22-175	102	1	61-12-401
			2	33-22-176	103	1	87-3-601
8	Notification to tribal governments		3	33-22-177		2	87-3-602
			4	33-22-101		3	87-3-603
			5	33-22-170		4	87-3-604
9	Effective date		6	Codification		5	87-6-101
78	1 85-2-402			instruction		6	87-6-404
79	1 80-4-426		7	Effective date		7	Repealer
	2 80-4-427			— applicability		8	Codification
	3 80-4-428	89	1	37-7-410			instruction
	4 80-4-429		2	37-2-108		9	Effective date
	5 Effective date		3	37-7-1515	104	1	30-10-105
80	1 75-1-208		4	37-2-101		2	30-10-324
	2 76-3-622		5	37-7-1503		3	Saving clause
	3 76-4-102		6	Codification		4	Severability
	4 76-4-103			instruction		5	Effective date
	5 76-4-104		7	Effective dates	105	1	7-4-2901
	6 76-4-105		8	Termination		2	7-4-2904
	7 76-4-107	90	1	61-10-128		3	7-4-2905
	8 76-4-111		2	Effective date	106	1	87-2-124
	9 76-4-113	91	1	15-70-430		2	87-1-290
	10 76-4-114		2	Effective date		3	Codification
	11 76-4-121	92	1	7-22-2101			instruction
	12 76-4-122		2	7-22-2109		4	Effective date
	13 76-4-125		3	7-22-2121	107	1	7-12-2171
	14 76-4-127		4	7-22-2142		2	7-12-4203
	15 76-4-130		5	80-5-120		3	Effective date
	16 76-4-131		6	80-7-105	108	1	15-62-210
	17 76-4-133		7	80-7-801		2	53-25-122
	18 Repealer		8	80-7-903		3	15-62-103
	19 Effective dates	93	1	20-7-904		4	53-25-103
81	1 2-15-3308	94	1	7-4-2222		5	Codification
	2 Notification to tribal governments	95	1	44-2-801			instruction
		96	1	20-9-471		6	Effective date
			2	20-9-525	109	1	23-5-160
82	1 77-5-201		3	Effective date		2	Effective date
	2 77-5-212	97	1	7-11-1004	110	1	33-17-231
	3 Effective date		2	Repealer		2	33-17-236
83	1 37-1-304		3	Codification		3	33-17-238
	2 Effective date			instruction	111	1	33-16-223
84	1 80-11-206		4	Saving clause		2	33-16-230
	2 Effective date		5	Effective date	112	1	37-24-106
85	1 2-18-303		6	Retroactive		2	37-24-107
	2 2-18-501			applicability	113	1	46-18-111
	3 2-18-703	98	1	40-7-109		2	Applicability
	4 Appropriations (amended — sec. 18, Ch. 398)		2	Effective date	114	1	87-2-511
		99	1	45-6-333		2	Effective date
		100	1	2-4-102	115	1	15-30-2393
			2	2-4-305		2	Codification
	5 Effective date		3	Effective date			instruction
86	1 81-9-233	101	1	7-32-2256		3	Effective date
	2 Repealer		2	Codification		4	Retroactive
	3 Effective date			instruction			applicability
87	1 81-2-102		3	Applicability			
	2 Effective date		4	Termination			

116	1	60-1-226	24	Codification	7	Effective date
	2	Codification		instruction	8	Retroactive
	3	instruction	124	1 75-7-112		applicability
	3	Effective date	2	75-7-113	137	1 20-9-410
117	1	15-31-552	125	1 81-2-703		2 Effective date
	2	15-31-553		2 Repealer	138	1 46-15-404
	3	33-3-201	126	1 87-2-815		2 46-15-405
	4	33-3-202		2 Effective date		3 46-15-406
	5	33-3-203	127	1 23-1-111		4 46-15-412
	6	33-4-202	128	1 20-9-141		5 46-15-411
	7	33-4-203		2 20-9-308		6 Codification
	8	33-4-204		3 20-9-314		instruction
	9	33-28-105		4 Effective date		7 Termination
	10	35-1-944	129	1 53-1-107	139	1 7-12-4422
	11	Effective date	130	1 37-7-101		2 7-12-4429
118	1	1-1-232		2 37-7-1503		3 Effective date
	2	Notification		3 37-7-1506	140	1 7-32-240
		to tribal		4 37-7-1511		2 7-32-303
		governments		5 Repealer	141	1 7-1-205
	3	Codification	131	1 40-5-272		2 13-10-201
		instruction		2 40-5-403		3 13-10-211
119	1	45-8-352		3 40-5-421		4 13-14-112
	2	Repealer		4 40-5-423		5 13-14-113
	3	Codification		5 40-5-804		6 Codification
		instruction		6 40-5-909		instruction
	4	Effective date		7 40-5-1002		7 Effective date
120	1	7-32-2133		8 40-5-1005	142	1 20-7-435
	2	Codification		9 40-5-1008		2 Effective date
		instruction		10 40-5-1017	143	1 61-3-224
	3	Applicability		11 40-5-1027		2 61-4-101
121	1	45-8-322		12 40-5-1043		3 61-4-106
122	1	87-1-506		13 40-5-1051		4 61-4-110
123	1	1-5-602		14 40-5-1059		5 61-4-120
	2	1-5-603		15 40-5-1063		6 61-4-124
	3	1-5-609		16 40-5-1064		7 61-4-125
	4	1-5-610		17 40-5-1067		8 61-4-127
	5	1-5-615		18 40-5-1068		9 Effective date
	6	1-5-616		19 40-5-1069	144	1 2-4-102
	7	1-5-617		20 40-5-1074		2 Effective date
	8	1-5-618	132	1 46-18-104	145	1 5-5-228
	9	1-5-619	133	1 45-5-501		2 Effective date
	10	1-5-620	134	1 50-32-222	146	1 13-25-203
	11	1-5-621		2 50-32-224		2 13-25-206
	12	1-5-622		3 50-32-226		3 Codification
	13	1-5-623		4 50-32-229		instruction
	14	1-5-624		5 50-32-232		4 Effective date
	15	1-5-625		6 Effective date	147	1 2-6-1017
	16	1-5-626	135	1 13-13-112		2 30-17-101
	17	1-5-627	136	1 1-4-111		3 Effective date
	18	1-5-628		2 1-4-112	148	1 70-28-112
	19	1-5-629		3 82-1-501	149	1 10-1-108
	20	1-5-630		4 Codification		2 Effective date
	21	1-5-631		instruction	150	1 10-1-104
	22	1-5-632		5 Saving clause		2 Applicability
	23	40-1-301		6 Severability	151	1 13-13-214

	2	13-13-241		12	15-31-322	171	1	Sec. 10, Ch.
	3	13-19-205		13	15-32-703			442, L. 2015
152	1	Repealer		14	15-70-433		2	Notification
	2	Effective date		15	15-70-450			to tribal
153	1	16-6-103		16	17-7-140			governments
	2	23-5-628		17	60-2-119		3	Effective date
	3	Effective date		18	61-10-154	172	1	10-4-101
154	1	20-3-321		19	Codification		2	10-4-103
	2	20-20-416			instruction		3	10-4-105
	3	Effective date	20		Name change		4	10-4-107
	4	Applicability			— directions		5	10-4-108
155	1	13-2-304			to code		6	10-4-109
156	1	2-2-140			commissioner		7	10-4-304
	2	2-2-102	21		Effective date		8	10-4-305
	3	2-2-121	164	1	Statue or bust		9	10-4-306
	4	2-2-136			of Judy Martz		10	10-4-308
	5	Codification			— display		11	10-4-309
		instruction			— private		12	10-4-314
157	1	37-4-408			funding		13	10-4-315
	2	Effective date	2		2-17-807		14	Sec. 32, Ch.
158	1	39-71-1401	3		2-17-808			367, L. 2017
	2	39-71-1402	4		Contingent		15	Repealer
	3	39-71-105			voidness		16	Notification
	4	39-71-124	165	1	27-12-207			to tribal
	5	39-71-407		2	Effective date			governments
	6	Codification	166	1	20-9-235		17	Effective date
		instruction		2	20-9-440		18	Termination
	7	Contingent	3		20-10-145	173	1	10-2-118
		voidness	4		Effective date		2	Transfer and
	8	Effective date			— applicability			appropriation
		— applicability	167	1	2-18-412			— funding
159	1	7-12-4307		2	2-18-601			included in
	2	7-12-4308		3	2-18-617			base budget —
	3	7-12-4311		4	2-18-618			periodic review
	4	7-12-4353		5	2-18-621		3	Effective date
	5	Effective date		6	2-18-623	174	1	61-8-310
	6	Applicability		7	Codification	175	1	20-15-310
160	1	16-4-310			instruction		2	Effective date
161	1	20-25-428		8	Effective date	176	1	17-5-205
	2	Notification		9	Retroactive		2	Effective date
		to tribal			applicability	177	1	23-2-825
		governments		10	Termination		2	60-3-201
	3	Effective date	168	1	Study of the		3	Codification
162	1	25-13-608			legislature			instruction
163	1	5-5-233		2	5-2-202		4	Effective date
	2	5-5-202		3	5-13-402	178	1	46-5-109
	3	5-5-211		4	17-7-112	179	1	69-4-1001
	4	5-5-226		5	Appropriation		2	69-4-1002
	5	5-5-227		6	Contingent		3	69-4-1003
	6	5-12-302			voidness		4	69-4-1004
	7	15-1-230		7	Effective date		5	Codification
	8	15-6-232	169	1	15-7-201			instruction
	9	15-7-111		2	Applicability		6	Effective date
	10	15-24-3211	170	1	60-4-203	180	1	40-4-108
	11	15-30-3112					2	40-4-131

	3	Effective date	197	1	61-3-205	2	46-15-116
181	1	45-5-501		2	61-3-220	3	Effective date
	2	45-5-502		3	61-3-411	206	1 77-3-411
	3	Effective date		4	Effective date	2	Effective date
	4	Applicability	198	1	13-38-105	207	1 23-1-116
182	1	60-1-227		2	13-38-202	2	23-1-118
	2	Codification		3	13-38-106	208	1 87-2-117
		instruction		4	30-13-219	2	Effective date
	3	Effective date		5	30-13-342	209	1 85-2-302
183	1	Repealer		6	13-38-107	210	1 33-22-1301
	2	Effective date		7	Codification	2	33-22-1302
184	1	10-1-505			instruction	3	33-22-1303
	2	Effective date		8	Severability	4	33-22-1306
185	1	2-7-505		9	Effective dates	5	33-22-1307
	2	2-18-402		10	Retroactive	6	33-22-1308
	3	17-2-102			applicability	7	33-22-1309
	4	17-2-105	199	1	40-9-201	8	33-22-1313
	5	17-2-202		2	40-9-202	9	33-22-1314
	6	17-8-101		3	Codification	10	33-22-1315
	7	20-9-201			instruction	11	33-22-1316
	8	39-3-213		4	Effective date	12	33-22-1317
	9	90-6-304	200	1	72-7-305	13	33-22-1320
	10	Effective date		2	72-7-502	14	33-22-1321
186	1	50-31-103	201	1	15-1-122	15	33-22-1322
	2	50-31-110		2	Effective date	16	Transition
	3	50-31-203	202	1	18-3-101	17	Codification
	4	50-31-208		2	Department of		instruction
	5	50-31-312			administration	18	Contingent
	6	81-9-217			required to		voidness
187	1	7-13-4108			develop plan	19	Effective date
	2	75-10-112			— advisory	20	Retroactive
	3	Codification			committee		applicability
		instruction		3	Effective date	211	1 85-2-231
	4	Effective date	203	1	Strategic plan	2	Effective date
188	1	2-9-303			for developing	3	Retroactive
189	1	15-24-1701			and expanding		applicability
	2	Effective date			prevention	212	1 13-35-225
190	1	17-6-308			services —	2	Effective date
	2	90-6-603			report to	213	1 26-1-608
	3	Effective date			legislature	214	1 40-1-312
191	1	17-6-345		2	Codification	215	1 33-22-180
	2	Effective date			instruction	2	33-22-101
192	1	85-2-302	204	1	Time limits	3	33-22-170
193	1	37-11-105		2	Appropriations	4	33-31-111
194	1	53-6-402			— authorization	5	Notification
	2	Effective date			to spend		to tribal
195	1	37-1-101			money		governments
	2	37-1-305		3	Fund transfers	6	Codification
	3	37-1-307		4	Reduction to		instruction
	4	37-4-341			general fund	7	Effective date
	5	37-17-104			appropriation		— applicability
	6	37-22-305			for fiscal year	216	1 Art. XIV, sec.
	7	37-23-201			2019		9, Mont. Const
196	1	20-7-104		5	Effective date	2	Two-thirds
	2	Effective date	205	1	26-2-506		vote required

	3	Effective date	21	50-6-301	3	Effective date
	4	Submission to electorate	22	50-6-302	4	Retroactive applicability
217	1	Art. III, sec. 4, Mont. Const	23	50-6-322	225	85-7-1710
	2	Two-thirds vote required	24	50-6-323	2	Effective date
	3	Effective date	25	50-6-506	226	1
	4	Submission to electorate	26	50-9-102	2	13-21-102
			27	50-16-701	2	13-21-104
			28	61-2-502	3	13-21-106
			29	61-2-503	4	13-21-107
218	1	Policy (not codified — referendum)	30	61-2-504	5	Codification instruction
	2	7-1-111 (not codified — referendum)	31	Notification to tribal governments	227	1
	3	45-8-351 (not codified — referendum)	32	Effective date	2	Codification instruction
	4	Codification instruction	221	1	3	Effective date
	5	Coordination instruction	2	37-47-304	4	Applicability
	6	Effective date	3	76-17-102	228	1
	7	Submission to electorate	4	87-1-266	2	45-5-507
			5	87-2-115	3	45-5-625
			6	87-2-201	4	Applicability
			7	87-2-304	229	1
			8	87-2-307	2	13-13-232
			9	87-2-308	3	13-13-241
			10	87-2-504	4	13-15-101
			11	87-2-505	5	13-15-104
			12	87-2-510	6	13-15-105
219	1	23-2-108	13	87-2-514	7	13-15-207
	2	23-2-109	14	87-2-701	8	13-19-106
	3	61-3-321	15	87-2-711	9	13-19-312
	4	Notification to tribal governments	16	87-2-801	10	13-35-241
	5	Codification instruction	17	87-2-803	11	13-35-704
	6	Effective date	18	87-2-805	12	Codification instruction
220	1	2-15-1731	19	87-2-817 (void - sec. 20, Ch. 221)	230	1
	2	7-33-4510	20	87-6-302	2	15-6-219
	3	7-34-102	21	Coordination instruction	3	15-6-242
	4	7-34-103	22	Effective date	4	Codification instruction
	5	20-7-1315	223	1	231	1
	6	37-3-102	2	85-2-420	2	Applicability
	7	37-3-203	3	33-28-101	2	87-2-817
	8	37-3-303	4	33-28-102	232	1
	9	37-20-303	5	33-28-104	2	Effective date
	10	37-27-104	6	33-28-105	3	23-4-110
	11	39-71-118	7	33-28-107	4	23-4-101
	12	45-5-214	8	33-28-111	5	Codification instruction
	13	46-4-114	9	33-28-201	233	1
	14	50-6-101	10	33-28-207	2	Effective date
	15	50-6-103	11	33-28-301	234	1
	16	50-6-105	12	33-28-401	2	39-3-406
	17	50-6-201	13	Repealer	2	Effective date
	18	50-6-202	14	Saving clause	235	1
	19	50-6-203	224	Severability	2	46-23-1001
	20	50-6-206	2	Effective date	236	1
				15-7-202	2	46-23-1005
				15-7-206	237	1
						37-47-201
						37-47-304
						13-27-402

238	1	87-3-310	2	41-3-205	15	Sec. 11, Ch.
	2	87-6-407	3	41-3-208		317, L. 2013
	3	87-2-119	4	41-5-215	255	1 40-15-102
	4	87-3-115	5	52-2-211	2	45-5-220
	5	87-6-202	6	52-2-304	3	Effective date
	6	87-6-218	7	Effective date	256	1 7-6-622
	7	87-6-411	249	1 46-23-110	2	Codification
	8	Codification	2	Repealer		instruction
		instruction	3	Effective date	3	Effective date
239	1	2-15-3310	250	1 20-7-1317	257	1 15-1-119
	2	Effective date	2	44-2-505	2	Codification
240	1	2-15-1704	3	44-2-506		instruction
	2	Effective date	4	Notification	258	1 15-6-241
	3	Applicability		to tribal	2	Codification
241	1	32-1-1501		governments		instruction
	2	32-1-1502	5	Codification	3	Applicability
	3	32-1-1503		instruction	259	1 87-6-222
	4	32-1-1504	6	Effective date	2	Codification
	5	Codification	251	1 75-5-320		instruction
		instruction	2	Codification	3	Effective date
242	1	2-15-1019		instruction	260	1 Legislative
243	1	45-8-213	252	1 10-3-302		findings —
244	1	87-3-315	2	10-3-303		development of
	2	87-6-240	253	1 20-9-236		real property
	3	Codification	2	20-9-502		management
		instruction	3	20-9-525		strategy
	4	Effective date	4	Effective date	261	1 7-6-1501
245	1	17-6-302	254	1 Sec. 9, Ch.	2	7-6-1503
	2	17-6-308		537, L. 1997	3	7-6-1504
	3	17-6-311	2	Sec. 5, Ch.	4	7-6-1541
	4	17-6-317		226, L. 2001	5	7-6-1542
	5	Notification	3	Sec. 7, Ch. 4,	6	Effective date
		to tribal		L. 2005	262	1 75-8-107
		governments	4	Sec. 2, Ch.	2	Effective date
	6	Severability		208, L. 2007	3	Applicability
	7	Effective date	5	Sec. 3, Ch.	263	1 33-22-172
246	1	53-20-215		208, L. 2007	2	Effective date
	2	53-20-203	6	Sec. 4, Ch.		— applicability
	3	Direction to		208, L. 2007	264	1 27-6-207
		department of	7	Sec. 7, Ch.	2	Effective date
		public health		208, L. 2007	265	1 50-32-609
		and human	8	Sec. 2, Ch.	2	Notification
		services		317, L. 2013		to tribal
	4	Codification	9	Sec. 3, Ch.		governments
		instruction		317, L. 2013	3	Effective date
	5	Effective date	10	Sec. 4, Ch.	266	1 85-2-114
247	1	Repealer		317, L. 2013	2	Effective date
	2	Repealer	11	Sec. 5, Ch.	267	1 76-22-115
	3	Appropriation		317, L. 2013	2	76-22-116
		(amended —	12	Sec. 6, Ch.	3	76-22-117
		sec. 4, Ch. 247)		317, L. 2013	4	76-22-105
	4	Coordination	13	Sec. 7, Ch.	5	76-22-111
		instruction		317, L. 2013	6	76-22-118
	5	Effective dates	14	Sec. 8, Ch.	7	Codification
248	1	20-1-401		317, L. 2013		instruction

	8	Effective date	31	35-14-205	86	35-14-743
268	1	2-7-515	32	35-14-206	87	35-14-744
	2	7-6-611	33	35-14-207	88	35-14-745
	3	15-1-121	34	35-14-208	89	35-14-746
	4	2-7-523	35	35-14-301	90	35-14-747
	5	2-7-524	36	35-14-302	91	35-14-748
	6	7-6-4037	37	35-14-303	92	35-14-749
	7	7-6-4038	38	35-14-304	93	35-14-801
	8	Codification	39	35-14-401	94	35-14-802
		instruction	40	35-14-402	95	35-14-803
	9	Saving clause	41	35-14-403	96	35-14-804
	10	Severability	42	35-14-501	97	35-14-805
	11	Effective date	43	35-14-502	98	35-14-806
	12	Retroactive	44	35-14-503	99	35-14-807
		applicability	45	35-14-504	100	35-14-808
269	1	15-24-1401	46	35-14-601	101	35-14-809
	2	15-24-1402	47	35-14-602	102	35-14-810
	3	Effective date	48	35-14-603	103	35-14-811
	4	Applicability	49	35-14-604	104	35-14-820
270	1	7-15-4286	50	35-14-620	105	35-14-821
	2	7-15-4291	51	35-14-621	106	35-14-822
	3	20-9-104	52	35-14-622	107	35-14-823
	4	20-9-141	53	35-14-623	108	35-14-824
	5	Saving clause	54	35-14-624	109	35-14-825
	6	Applicability	55	35-14-625	110	35-14-826
271	1	35-14-101	56	35-14-626	111	35-14-830
	2	35-14-102	57	35-14-627	112	35-14-831
	3	35-14-120	58	35-14-630	113	35-14-832
	4	35-14-121	59	35-14-631	114	35-14-840
	5	35-14-122	60	35-14-640	115	35-14-841
	6	35-14-123	61	35-14-701	116	35-14-842
	7	35-14-124	62	35-14-702	117	35-14-843
	8	35-14-125	63	35-14-703	118	35-14-844
	9	35-14-126	64	35-14-704	119	35-14-850
	10	35-14-127	65	35-14-705	120	35-14-851
	11	35-14-128	66	35-14-706	121	35-14-852
	12	35-14-129	67	35-14-707	122	35-14-853
	13	35-14-130	68	35-14-708	123	35-14-854
	14	35-14-140	69	35-14-709	124	35-14-855
	15	35-14-141	70	35-14-720	125	35-14-856
	16	35-14-142	71	35-14-721	126	35-14-857
	17	35-14-143	72	35-14-722	127	35-14-858
	18	35-14-144	73	35-14-723	128	35-14-859
	19	35-14-145	74	35-14-724	129	35-14-860
	20	35-14-146	75	35-14-725	130	35-14-861
	21	35-14-147	76	35-14-726	131	35-14-862
	22	35-14-148	77	35-14-727	132	35-14-863
	23	35-14-149	78	35-14-728	133	35-14-870
	24	35-14-150	79	35-14-729	134	35-14-901
	25	35-14-151	80	35-14-730	135	35-14-902
	26	35-14-152	81	35-14-731	136	35-14-903
	27	35-14-201	82	35-14-732	137	35-14-904
	28	35-14-202	83	35-14-740	138	35-14-920
	29	35-14-203	84	35-14-741	139	35-14-921
	30	35-14-204	85	35-14-742	140	35-14-922

141	35-14-923	196	35-14-1423	251	35-8-103
142	35-14-924	197	35-14-1430	252	35-9-103
143	35-14-930	198	35-14-1431	253	35-9-201
144	35-14-931	199	35-14-1432	254	35-9-202
145	35-14-932	200	35-14-1433	255	35-9-205
146	35-14-933	201	35-14-1434	256	35-9-302
147	35-14-934	202	35-14-1440	257	35-9-303
148	35-14-935	203	35-14-1501	258	35-9-402
149	35-14-1001	204	35-14-1502	259	35-9-404
150	35-14-1002	205	35-14-1503	260	35-9-501
151	35-14-1003	206	35-14-1504	261	35-9-504
152	35-14-1004	207	35-14-1505	262	35-15-201
153	35-14-1005	208	35-14-1506	263	35-16-202
154	35-14-1006	209	35-14-1507	264	35-17-202
155	35-14-1007	210	35-14-1508	265	35-18-203
156	35-14-1008	211	35-14-1509	266	35-20-103
157	35-14-1009	212	35-14-1510	267	80-12-203
158	35-14-1020	213	35-14-1511	268	85-1-613
159	35-14-1021	214	35-14-1512	269	Repealer
160	35-14-1022	215	35-14-1601	270	Transition —
161	35-14-1101	216	35-14-1602		application
162	35-14-1102	217	35-14-1603		to existing
163	35-14-1103	218	35-14-1604		domestic
164	35-14-1104	219	35-14-1605		corporations
165	35-14-1105	220	35-14-1620	271	Codification
166	35-14-1106	221	35-14-1621		instruction
167	35-14-1107	222	10-4-101	272	Saving clause
168	35-14-1108	223	15-31-103	273	Severability
169	35-14-1201	224	15-31-552	274	Effective date
170	35-14-1202	225	20-5-320	275	Applicability
171	35-14-1301	226	30-13-202		— existing
172	35-14-1302	227	32-1-112		foreign
173	35-14-1303	228	32-1-301		corporations
174	35-14-1320	229	32-1-339	272	1 87-6-406
175	35-14-1321	230	32-1-422		2 Effective date
176	35-14-1322	231	33-3-103	273	1 44-2-407
177	35-14-1323	232	33-3-215		2 Authorization
178	35-14-1324	233	33-3-601		— legislative
179	35-14-1325	234	33-3-602		intent
180	35-14-1326	235	33-3-603	3	Notification
181	35-14-1330	236	33-11-103		to tribal
182	35-14-1331	237	33-12-104		governments
183	35-14-1340	238	33-17-211	4	Codification
184	35-14-1401	239	33-31-201		instruction
185	35-14-1402	240	35-1-1403	5	Coordination
186	35-14-1403	241	35-1-1406		instruction
187	35-14-1404	242	35-1-1407	6	Effective date
188	35-14-1405	243	35-1-1408	274	1 Appropriation
189	35-14-1406	244	35-2-826		of cultural
190	35-14-1407	245	35-4-503		and aesthetic
191	35-14-1408	246	35-5-201		grant funds
192	35-14-1409	247	35-6-101		— priority of
193	35-14-1420	248	35-6-102		disbursement
194	35-14-1421	249	35-6-104		
195	35-14-1422	250	35-6-201		

	2	Appropriation of cultural and aesthetic grant funds		4	20-7-1506	19	23-7-312
				5	20-7-701	20	23-7-401
				6	Appropriation	21	23-7-402
	3	Reversion of grant money		7	Codification instruction	22	23-7-411
				8	Effective date	23	39-51-3206
	4	Reductions to grant on pro rata basis	280	1	87-2-115	24	Repealer
				2	Effective date	25	Transition
			281	1	22-2-601	26	Codification instruction
	5	Effective date		2	22-2-602	27	Effective date
275	1	44-2-408		3	Repealer	285	1 2-15-156
	2	44-2-502		4	Notification to tribal governments	2	2-15-1508
	3	44-2-504				3	2-15-1821
	4	Notification to federal government		5	Effective date	4	2-15-1822
			282	1	23-1-111	5	5-1-102
	5	Notification to tribal governments	283	1	30-11-717	6	Appropriation
				2	30-11-718	7	Codification instruction
				3	30-11-719	8	Effective dates
	6	Codification instruction		4	61-4-213	286	1 46-13-110
				5	30-11-701	2	Effective date
276	1	19-20-101		6	30-11-702	287	1 37-1-307
	2	19-20-208		7	30-11-703	2	37-11-312
	3	19-20-303		8	30-11-705	3	37-17-403
	4	19-20-503		9	30-11-712	4	39-51-304
	5	19-20-603		10	30-11-713	5	Effective date
	6	19-20-607		11	61-4-132	288	1 80-11-1101
	7	19-20-702		12	61-4-133	2	Codification instruction
	8	19-20-706		13	61-4-134		
	9	19-20-722		14	61-4-204	3	Effective date
	10	19-20-801		15	61-4-205	289	1 80-18-101
	11	19-20-810		16	61-4-206	2	80-18-102
	12	19-20-1001		17	61-4-207	3	80-18-103
	13	19-20-1002		18	Codification instruction	4	80-18-106
	14	19-20-1005				5	80-18-107
	15	19-20-1006		19	Severability	6	80-18-111
	16	19-20-1007		20	Effective date	7	Effective date
	17	19-20-1008	284	1	23-7-104	290	1 15-6-220
	18	19-20-1009		2	23-5-112	2	Applicability
	19	19-20-1013		3	23-7-101	3	Termination
	20	19-20-1212		4	23-7-102	291	1 7-33-4107
	21	19-21-202		5	23-7-103	2	Effective date
	22	Repealer		6	23-7-110	292	1 15-64-102
	23	Codification instruction		7	23-7-201	2	18-7-101
				8	23-7-202	3	50-46-302
	24	Effective dates		9	23-7-210	4	50-46-302
	25	Retroactive applicability		10	23-7-211	5	50-46-303
				11	23-7-212	6	50-46-303
277	1	87-4-603		12	23-7-301	7	50-46-304
	2	87-4-606		13	23-7-302	8	50-46-307
	3	87-4-607		14	23-7-305	9	50-46-307
278	1	87-4-603		15	23-7-306	10	50-46-308
279	1	20-7-1501		16	23-7-307	11	50-46-308
	2	20-7-1502		17	23-7-310	12	50-46-309
	3	20-7-1503		18	23-7-311	13	50-46-309

14	50-46-310	2	39-9-101	3	23-2-821
15	50-46-311	3	39-9-102	4	27-1-724
16	50-46-305	4	39-9-206	5	60-1-102
17	50-46-317	5	39-9-207	6	60-1-103
18	50-46-319	6	39-9-211	7	60-1-201
19	50-46-319	7	39-9-301	8	60-2-107
20	50-46-320	8	39-9-303	9	60-2-111
21	50-46-326	9	39-9-304	10	60-2-126
22	50-46-327	10	Repealer	11	60-2-129
23	50-46-329	11	Codification	12	60-2-141
24	50-46-330		instruction	13	60-2-201
25	50-46-330		— directions	14	60-2-208
26	50-46-341		to code	15	60-2-217
27	50-46-343		commissioner	16	60-2-218
28	50-46-344	12	Effective date	17	60-3-205
29	50-46-344	295 1	61-3-111	18	60-3-207
30	50-46-345	2	61-3-320	19	60-4-110
	(replaced —	3	61-3-411	20	60-4-208
	sec. 36, Ch.	4	61-3-412	21	60-4-401
	292)	5	61-3-413	22	60-4-403
31	50-46-346	6	61-3-474	23	60-5-101
32	50-46-347	7	61-3-475	24	60-5-102
33	50-46-313	8	Effective date	25	60-5-103
34	Transition	296 1	87-1-295	26	60-5-106
35	Codification	2	87-1-296	27	61-8-303
	instruction	3	87-1-297	28	61-8-309
36	Coordination	4	87-1-269	29	61-8-310
	instruction	5	Codification	30	61-8-312
37	Effective date		instruction	31	61-8-321
	— contingency	6	Effective date	32	61-8-355
	— direction to	297 1	53-21-1207	33	61-9-101
	department of	2	50-46-345	34	61-9-109
	public health		(replaced —	35	61-10-124
	and human		sec. 36, Ch.	36	61-10-130
	services		292)	37	61-10-144
38	Applicability	3	53-6-101	38	90-6-210
39	Contingent	4	Appropriation	39	Repealer
	termination	5	Notification	40	Effective date
293 1	52-2-801		to tribal	300 1	20-1-225
2	52-2-802		governments	2	20-26-101
3	52-2-803	6	Codification	3	20-26-102
4	52-2-804		instruction	4	20-26-103
5	52-2-805	7	Effective date	5	20-26-104
6	52-2-806	298 1	85-2-154	6	20-26-105
7	52-2-807	2	85-2-155	7	20-26-201
8	52-2-808	3	2-15-3308	8	20-26-202
9	52-2-809	4	Notification	9	20-26-203
10	52-2-810		to tribal	10	20-26-603
11	52-2-811		governments	11	20-26-606
12	Transition	5	Codification	12	20-26-614
13	Repealer		instruction	13	20-26-616
14	Codification	6	Effective date	14	20-26-617
	instruction	7	Termination	15	23-7-402
15	Effective date	299 1	15-70-102	16	23-7-402
294 1	39-9-212	2	17-5-903	17	Repealer

	18	Codification instruction	7	45-5-705	21	72-2-239
			8	45-5-709	22	72-2-243
	19	Effective date	9	46-18-104	23	72-2-223
	20	Termination	10	46-18-111		(renumbered
301	1	81-7-504	11	46-18-207		72-2-242)
	2	Effective date	12	46-18-219	24	72-2-225
302	1	80-4-402	13	46-18-231		(renumbered
	2	80-4-405	14	46-23-502		72-2-241)
	3	80-4-601	15	Effective date	25	72-2-228
	4	80-4-604	16	Applicability		(renumbered
	5	Effective date	309	61-1-101		72-2-244)
303	1	60-4-402	2	61-3-317	26	72-2-230
	2	60-6-101	3	61-5-102		(renumbered
	3	60-6-102	4	61-5-112		72-2-240)
	4	60-6-103	5	61-8-102	27	72-2-412
	5	60-6-104	310	7-33-1901	28	72-2-413
	6	60-6-105	2	7-33-1902	29	72-2-415
304	1	75-26-301	3	7-33-1903	30	72-2-613
	2	75-26-304	4	7-33-1904	31	72-2-616
	3	75-26-308	5	7-33-4107	32	72-2-712
	4	75-26-309	6	Notification	33	72-2-716
	5	75-26-310		to tribal	34	72-2-717
	6	Notification		governments	35	72-2-813
		to tribal	7	Codification	36	72-2-814
		governments		instruction	37	72-2-815
	7	Saving clause	8	Effective date	38	72-2-816
	8	Effective date	311	90-4-1102	39	72-2-817
305	1	45-5-501 (void	2	90-4-1110	40	72-2-818
		- sec. 6, Ch.	3	90-4-1112	41	72-2-819
		305)	4	90-4-1113	42	72-2-820
	2	45-5-502 (void	5	90-4-1114	43	72-2-821
		- sec. 7, Ch.	6	Legislative	44	72-2-822
		305)		intent	45	72-2-823
	3	20-7-1321	7	Effective date	46	72-2-824
	4	20-7-1322	312	72-2-813	47	72-2-825
	5	Codification	313	72-1-101(2)	48	72-2-826
		instruction	2	72-6-418	49	72-2-827
	6	Coordination	3	72-1-103	50	72-2-828
		instruction	4	72-1-201	51	72-2-829
	7	Coordination	5	72-1-208	52	72-2-830
		instruction	6	72-1-302	53	72-2-831
	8	Severability	7	72-1-303	54	72-2-832
	9	Effective date	8	72-2-112	55	72-2-833
	10	Applicability	9	72-2-114	56	72-3-102
306	1	2-15-3112	10	72-2-116	57	72-3-112
307	1	19-20-732	11	72-2-118	58	72-3-122
	2	Effective date	12	72-2-125	59	72-3-131
	3	Applicability	13	72-2-231	60	72-3-201
	4	Termination	14	72-2-232	61	72-3-202
308	1	45-2-211	15	72-2-233	62	72-3-203
	2	45-5-601	16	72-2-234	63	72-3-321
	3	45-5-602	17	72-2-235	64	72-3-401
	4	45-5-603	18	72-2-236	65	72-3-404
	5	45-5-702	19	72-2-237	66	72-3-502
	6	45-5-704	20	72-2-238	67	72-3-504

68	72-3-514		8	15-18-213	327	1	61-3-460
69	72-3-607		9	15-18-214		2	Effective date
70	72-3-611		10	15-18-215	328	1	27-1-434
71	72-3-613		11	15-18-216	329	1	52-3-803
72	72-3-619		12	15-18-217		2	52-3-825
73	72-3-618		13	15-18-411		3	Effective date
74	72-3-631		14	15-18-412	330	1	13-37-501
75	72-3-803		15	15-18-413		2	13-37-502
76	72-3-815		16	70-9-803		3	13-37-503
77	72-3-917		17	Codification		4	13-37-128
78	72-3-1012			instruction		5	Severability
79	72-3-1013		18	Saving clause		6	Codification
80	72-4-203		19	Effective date			instruction
81	72-6-111		20	Applicability		7	Applicability
82	72-6-112	318	1	3-6-201	331	1	15-23-703
83	72-6-401		2	Effective date		2	15-23-715
84	72-6-402	319	1	13-35-225		3	Effective date
85	Applicability	320	1	44-6-109		4	Retroactive
86	72-6-403		2	Codification			applicability
87	72-6-404			instruction	332	1	15-10-420
88	72-6-405	321	1	60-1-228		2	Effective date
89	72-6-406		2	Codification		3	Applicability
90	72-6-407			instruction	333	1	15-32-402
91	72-6-408		3	Effective date		2	Effective date
92	72-6-409	322	1	50-74-103		3	Retroactive
93	72-6-410		2	50-74-209			applicability
94	72-6-411		3	50-74-219	334	1	15-38-106
95	72-6-412		4	50-74-306		2	15-38-113
96	72-6-413		5	50-74-307		3	82-4-405
97	72-6-414		6	Effective date		4	82-4-424
98	72-6-415	323	1	70-23-1101		5	82-4-425
99	72-6-416		2	70-23-1102		6	82-4-426
100	72-6-417		3	70-23-1103		7	82-4-427
101	72-7-401		4	70-23-1104		8	82-4-431
102	72-15-301		5	70-23-1105		9	82-4-432
103	Directions		6	70-23-102		10	82-4-433
	to code		7	76-3-203		11	82-4-434
	commissioner		8	76-4-111		12	82-4-437
104	Codification		9	Codification		13	82-4-438
	instruction			instruction		14	82-4-440
105	Repealer		10	Nonapplicability		15	Report to
314	1 13-3-105	324	1	39-2-1501			environmental
315	1 33-15-403		2	39-2-1502			quality council
	2 Effective date		3	39-2-1503		16	Codification
316	1 69-3-331		4	Codification			instruction
	2 Codification			instruction		17	Effective date
	instruction	325	1	13-3-208	335	1	15-15-201
	3 Effective date		2	13-1-101		2	61-3-224
317	1 15-18-219		3	13-12-202		3	61-3-312
	2 15-18-220		4	13-17-103		4	61-3-316
	3 15-18-221		5	Codification		5	61-3-321 ((8)
	4 15-17-121			instruction			replaced —
	5 15-18-112		6	Effective date			sec. 28, Ch.
	6 15-18-211	326	1	61-10-125			335)
	7 15-18-212		2	Effective date		6	61-3-332

	7	61-3-414		11	Codification instruction	8	16-4-402
	8	61-3-415				9	16-4-420
	9	61-3-423		12	Applicability	10	23-5-119
	10	61-3-474	338	1	60-1-232	11	Repealer
	11	61-3-535		2	Appropriation	12	Codification instruction
	12	61-4-203		3	Codification instruction	13	Effective date
	13	61-5-111				14	Retroactive applicability
	14	61-5-112		4	Effective date		
	15	61-5-118	339	1	70-17-901	343	1 10-2-112
	16	61-5-123		2	70-23-507	2	10-2-603
	17	61-5-232		3	Codification instruction	3	10-3-801
	18	61-11-102				4	15-1-122
	19	61-11-503		4	Severability	5	15-35-108
	20	61-12-502		5	Effective date	6	17-7-502
	21	61-13-103	340	1	Authorization to provide loans	7	80-11-901
	22	61-14-101				8	81-1-112
	23	61-14-201				9	90-9-202
	24	61-14-202		2	Projects not completing requirements — projects reauthorized	10	Reporting requirements
	25	61-14-301				11	Sec. 10, Ch. 10, Special L. May 2000
	26	Repealer				12	Sec. 3, Ch. 481, L. 2003
	27	Codification instruction		3	Coal severance tax bonds authorized	13	Sec. 6, Ch. 481, L. 2003
	28	Coordination instruction		4	Condition of loans	14	Sec. 2, Ch. 459, L. 2009
	29	Coordination instruction		5	Private and discount purchase of loans	15	Sec. 3, Ch. 459, L. 2009
	30	Coordination instruction				16	Repealer
	31	Effective dates		6	Appropriations established	17	Effective dates
336	1	16-4-211		7	Creation of state debt — appropriation of coal severance tax — bonding provisions	18	Termination
	2	16-4-212				344	1 41-5-1430
	3	16-4-213				2	10-1-1402
	4	16-4-203				3	20-9-327
	5	16-4-205				4	41-5-103
	6	16-4-210				5	41-5-121
	7	16-4-401				6	41-5-124
	8	16-4-402				7	41-5-125
	9	16-4-501				8	41-5-130
	10	16-4-1005				9	41-5-131
	11	23-5-119				10	41-5-132
	12	Repealer		8	Notification to tribal governments	11	41-5-215
	13	Codification instruction		9	Severability	12	41-5-332
	14	Effective date		10	Effective date	13	41-5-341
	15	Applicability				14	41-5-1304
337	1	13-10-605	341	1	Time limits	15	41-5-1432
	2	13-37-601		2	Appropriations	16	41-5-1512
	3	13-37-602		3	Effective date	17	41-5-1513
	4	13-37-603	342	1	16-4-430	18	41-5-1522
	5	13-37-604		2	16-4-105	19	41-5-1523
	6	13-37-605		3	16-4-201	20	41-5-1524
	7	13-37-606		4	16-4-204	21	41-5-1604
	8	13-37-607		5	16-4-207		
	9	13-1-101		6	16-4-305		
	10	13-37-121		7	16-4-306		

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22	41-5-1703	9	40-4-136	2	37-51-102
23	41-5-2005	10	Repealer	3	Repealer
24	45-5-501	11	Codification	4	Transfer of
25	45-5-502		instruction		funds
26	46-23-102	12	Effective date	5	Transition
27	52-5-102	351 1	87-2-524		from real
28	52-5-103	2	87-6-304		estate recovery
29	52-5-109	3	Effective date		account
30	52-5-126	352 1	15-31-1001	6	Coordination
31	52-5-127	2	15-31-1002		instruction
32	52-5-128	3	15-31-1003	7	Effective dates
33	53-1-203	4	15-31-1004	355 1	15-23-703
34	Appropriation	5	15-31-1005	2	Effective date
35	Repealer	6	15-31-1006	356 1	23-2-541
36	Codification	7	15-31-1007	2	15-65-121
	instruction		(amended —	3	15-72-601
37	Contingent		sec. 16, Ch.	4	61-3-321 (void
	voidness		352)		- sec. 3, Ch.
38	Effective date	8	15-31-1008		486)
39	Applicability	9	15-31-1009	5	80-7-1004
345 1	7-3-103		(amended —	6	80-7-1004
2	7-3-111		sec. 17, Ch.		(amended —
3	7-3-149		352)		sec. 3, Ch. 486)
4	13-10-602	10	15-31-1010	7	80-7-1004
5	Effective date	11	15-31-1011		(amended —
346 1	45-5-501	12	15-31-1012		sec. 3, Ch. 486)
2	45-5-502	13	17-7-502	8	87-2-130
347 1	15-30-2110	14	Codification	9	87-2-903
2	20-4-134		instruction	10	90-1-135
3	20-4-501	15	Coordination	11	Appropriation
4	20-4-502		instruction	12	Appropriation
5	20-4-503	16	Coordination	13	Sec. 19, Ch.
6	20-4-504		instruction		387, L. 2017
7	20-4-505	17	Coordination	14	Sec. 21, Ch.
8	Repealer		instruction		387, L. 2017
9	Appropriation	18	Severability	15	Repealer
10	Effective date	19	Effective date	16	Codification
11	Applicability	20	Applicability		instruction
348 1	46-18-201	353 1	23-2-110	17	Effective dates
2	61-5-214	2	23-2-111	18	Termination
3	61-5-216	3	23-2-112	357 1	20-1-220
4	Transition	4	23-2-113	2	Effective date
5	Effective date	5	23-2-101	358 1	37-51-325
6	Retroactive	6	23-2-102	2	37-51-321
	applicability	7	23-2-103	3	Codification
349 1	80-8-105	8	23-2-615		instruction
2	80-8-209	9	23-2-636	4	Effective date
350 1	40-3-130	10	23-2-814	359 1	17-1-701
2	40-3-131	11	61-3-321 ((8)	2	17-1-702
3	40-3-132		replaced —	3	17-5-1604
4	40-3-133		sec. 28, Ch.	4	17-6-316
5	40-3-134		335)	5	Notification
6	40-3-102	12	Codification		to tribal
7	40-4-104		instruction		governments
8	40-4-107	354 1	17-7-502		

	6	Codification instruction	7	39-11-307	4	Effective date
	7	Effective date	8	Transfer and appropriation	371	1 39-71-320
360	1	87-2-117	9	Notification to tribal governments	372	2 Repealer
	2	Effective date			3	Effective dates
361	1	49-4-203			1	45-6-301
	2	49-4-214	10	Codification instruction	3	45-8-101
	3	49-4-221			373	3 Applicability
	4	49-4-222	11	Effective date	1	44-2-411
	5	Legislative intent	12	Termination	2	44-2-412
	6	Codification instruction	367	1 41-3-210	3	44-2-413
			2	27-2-204	4	Transfer of funds
			3	27-2-216	5	Appropriation
362	1	50-5-225	4	41-3-102	6	Notification to tribal governments
	2	50-5-227	5	41-3-201		Effective date
363	1	90-1-120	6	41-3-202 (amended — sec. 14, Ch. 367)	7	Termination
	2	53-2-1203			374	1 44-4-1202
	3	90-1-101	7	41-3-205	2	44-4-1203
	4	90-1-105	8	41-3-207	3	44-4-1205
	5	90-1-112	9	45-1-205	375	1 90-1-201
	6	90-1-144	10	Repealer	2	Notification to tribal governments
	7	Notification to tribal governments	11	Transition — reports to attorney general and legislature	3	Effective date
	8	Codification instruction			376	1 17-7-502
364	1	40-5-201			2	76-13-151
	2	40-5-210			3	Effective date
	3	40-5-225	12	Authorization to amend filed complaint	377	1 87-2-523
	4	40-5-226			2	Effective date
	5	40-5-232			378	1 87-2-519
	6	40-5-233	13	Codification instruction	2	87-1-301
	7	40-5-234			3	87-6-404
	8	40-5-236	14	Coordination instruction	4	Codification instruction
	9	40-5-237			5	Effective date
	10	40-5-238	15	Saving clause	379	1 80-6-102
	11	40-6-102	16	Severability	2	80-6-106
	12	40-6-105	17	Effective date	3	80-6-114
	13	40-6-111	18	Retroactive applicability	4	80-6-201
	14	40-6-112			5	Effective date
	15	40-6-113	19	Applicability	380	1 46-18-208
	16	40-6-114	368	1 40-4-208	2	46-23-1011
	17	40-6-115	2	Appropriation	3	Effective date
	18	40-6-119	3	Effective date	381	1 87-2-104
365	1	80-9-101	369	1 20-7-1323	2	87-2-501
	2	80-9-201	2	20-7-1324	3	Effective date
	3	80-9-202	3	20-7-1325	1	87-2-104
	4	80-9-206	4	20-7-1326	2	87-2-501
	5	Effective date	5	Codification instruction	382	1 41-3-102
366	1	39-11-301			2	41-3-202
	2	39-11-302	6	Effective date	3	41-3-203
	3	39-11-303	370	1 60-1-229	4	41-3-204
	4	39-11-304	2	Appropriation	5	41-3-205
	5	39-11-305	3	Codification instruction	6	41-3-208
	6	39-11-306			7	50-16-603

	8	Effective date	2	20-7-305	5	Legislative
	9	Applicability	3	Effective date		financial
383	1	15-6-162	393	1	Extended	modernization
	2	Severability			employment	and risk
	3	Effective date			and targeted	analysis study
	4	Retroactive			case	6
		applicability			management	Long term
384	1	46-18-1102			— state special	budget
	2	46-18-1103			revenue	stabilization
	3	46-18-1104			account	study
	4	46-18-1105	2	Older		7
	5	46-18-1106		Montanans		Appropriations
	6	46-18-1107		trust state		8
	7	46-18-1108		special		Fund transfers
	8	46-18-1109		revenue		9
	9	46-18-1110		account		Appropriations
	10	46-18-1111	3	10-2-416		to executive
	11	Repealer	4	17-7-301		agencies —
	12	Codification	5	17-7-311		allocations
		instruction	6	52-3-115		10
	13	Severability	7	53-1-402		Appropriations
385	1	53-21-508	8	53-6-125		to office
	2	Effective date	9	53-19-310		of public
386	1	30-10-105	10	Fund transfers		instruction —
	2	Effective date	11	Codification		allocations
	3	Termination		instruction		12
387	1	46-15-320	12	Effective date		Appropriations
	2	Codification	13	Termination		to state
		instruction	394	1	53-20-202	auditor's office
	3	Effective date	2	53-20-205		— allocations
388	1	Transfer of	3	Appropriation		13
		funds — grant	4	Direction to		Appropriations
		program		department of		to public
	2	Coordination		public health		service
		instruction		and human		commission —
	3	Effective date		services		allocations —
389	1	Short title	5	Effective date		coordination
	2	27-17-311	395	1	Sec. 28, Ch.	14
	3	27-17-205			6, Special L.	Coordination
	4	27-17-304			November	instruction
	5	Codification			2017	16
		instruction	2	Fund transfer		Coordination
	6	Saving clause	3	Effective date		instruction
390	1	37-22-103	396	1	30-10-209	17
	2	37-22-307		2	Effective date	Coordination
	3	37-22-308	397	1	Appropriation	instruction
	4	37-22-102		2	Effective date	18
	5	37-22-301	398	1	5-12-205	19
	6	37-22-313		2	10-3-312	Contingent
	7	Codification		3	17-7-130	voidness
		instruction			(replaced —	20
	8	Effective date			sec. 17, Ch.	Effective dates
391	1	Appropriations			398)	21
	2	Effective date	4	17-7-140		Termination
392	1	Fund transfer				399
						1
						15-30-2303
						(amended —
						sec. 15, Ch.
						352; sec. 5, Ch.
						399)
						5-5-227
						3
						Repealer

	4	Codification instruction	7	50-46-329	15	15-66-202
			8	50-46-344	16	15-66-203
	5	Coordination instruction	9	Legislative intent	17	15-66-204
	6	Effective date	10	Codification instruction	18	15-66-205
400	1	39-71-319			19	17-7-301
	2	39-51-409	412	1 37-2-317	20	17-7-311
	3	39-71-201	2	37-2-318	21	17-7-502
	4	Appropriation	3	53-6-101	22	33-30-102
	5	Codification instruction	4	Notification to tribal governments	23	39-12-101
	6	Effective date			24	39-12-103
	7	Termination	5	Direction to department of public health and human services	25	53-4-1110
401	1	2-17-101			26	53-6-131
	2	Effective date			27	53-6-133
	3	Termination			28	53-6-149
402	1	20-7-1601			29	53-6-160
	2	20-7-1602	6	Codification instruction	30	53-6-1302
	3	20-9-116			31	53-6-1303
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